THE COUNTY ASSEMBLY OF BOMET

THIRD ASSEMBLY: THIRD SESSION

THE COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF RECEIVER OF REVENUE FOR THE YEAR ENDED 30TH JUNE, 2022

JUNE, 2024

Hon. Speaker
You may approve for tabling
Kipkemoi
28/08/2024

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BOMET COUNTY ASSEMBLY
SPEAKER
28 AUG 2024
P.O. BOX 590 - 20400, BOMET

Approved
28/08/2024.

JUNE 2024

Tabled on 28/08/2024

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Abbreviations and Acronyms

CECM	-	County Executive Committee Members
IPSASs	-	International Public Sector Accounting Standards

1 INTRODUCTION

Pursuant to the mandate of the County Public Investments and Accounts Committee and on behalf of the members of the Committee, I beg to present the Report of the Committee on the issues raised in the Report of the Auditor-General on financial statements of Receiver of Revenue for the year ended 30 June 2022.

The audit objective was to ascertain whether the Bomet as a receiver of revenue was administered as per the provision of the Public Finance Management Act, 2012 and the fund regulations. The Audit covered the financial statements of Receiver of Revenue for the period commencing 1st July 2021 to 30th June 2022. Upon concluding the audit, the Auditor-General prepared a report touching on the following areas:

a) Report on the Financial Statements

b) Report on the Lawfulness and Effectiveness in the use of Public Resources

c) Report on the Effectiveness of internal controls, Risk Management and Governance

1.1 Establishment of the Committee

The County Public Investments and Accounts Committee is a select Committee established under Standing Order No. 198 (1) and is responsible for the examination the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit. Further, the Committee is responsible for the examination, in the context of autonomy and efficiency of the county public investment, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

1.2 Committee Membership

The Committee as currently constituted comprises of the following Honourable Members: -

1. Hon. Charles Langat - Chairperson
2. Hon. Denis Kiplangat - Vice Chairperson
3. Hon. Leonard Rotich - Member

4. Hon. Olivia Koskei - Member
5. Hon. Richard Rutoh - Member
6. Hon. Denis Busienei - Member
7. Hon. Caroline Chelangat - Member

1.3 Mandate and Powers of the Committee

Pursuant to Standing Order 198 (2), the Committee is mandated to do the following: -

a) The examination of accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and such other accounts laid before the County Assembly as the Committee may deem fit.

b) The examination of the reports, accounts, and workings of the county public investments;

c) The examination, in context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

The Committee, under the provisions of Article 195 of the Constitution of Kenya and Standing Order 184 is mandated to exercise all the powers and privileges bestowed on the County Assembly by the Constitution and relevant statutes, including the power to summon witnesses, examine them on oath, receive evidence and to request for and receive papers and documents from the County Government and the public.

1.4 Guiding Principles

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on public finance management, as well as established legislative customs, traditions, practices, and usages. These principles include:

i. Constitutional Principles on Public Finance

Article 201 provides for the fundamental principles of public finance. Under the said Article, the following principles shall guide all aspects of public finance in the republic.

- *201(a) there shall be openness and accountability, including public participation in financial matters;*
- *201(d) public money shall be used in a prudent and responsible way; and*
- *201(e) financial management shall be responsible, and fiscal reporting shall be clear.*

Therefore, in arriving at its observations and recommendations, the Committee was guided by these principles during the preparation of this report.

ii. 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''. The Committee has relied on this constitutional provision as the basis for holding each Accounting Officer and other Public Officers directly and personally liable for any loss of public funds under their watch. The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. It is envisaged that it will serve as a deterrent measure.

iii. Obligations of the Accounting Officers

Section 156 (1) of the Public Finance Management Act, 2012 provides that:

" If an accounting officer reasonably believes that a public officer employed by a County Government entity has engaged in improper conduct in relation to the resources of the entity, the accounting officer shall –

a) Take appropriate measures to discipline the public officer in accordance with regulations; or

b) Refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer."

Section 156 (4):

" For purposes of this section, a public officer or accounting officer engages in improper conduct if the officer-

a) *contravenes or fails to comply with this Act or any regulation in force;*

b) *undermines any financial management procedures or controls;*

c) *makes or permits an expenditure that is unlawful or has not been properly authorized by the entity concerned; or*

d) *fails without reasonable cause to pay eligible and approved bills promptly in circumstances where funds are provided for."*

Section 156(5):

" Disciplinary measures under this section may not be taken against a public officer or accounting officer under subsection (1) (a) or (2) (a) unless the officer has been given an opportunity to be heard in relation to the alleged improper conduct concerned."

1.5 Acknowledgement

I wish to take this opportunity to thank the Honourable Members for their hard work and commitment which made the taking of evidence and preparation of this report successful. It is my pleasant duty and privilege, on behalf of the County Public Investment and Accounts Committee, to present this report on the financial statements of Receiver of Revenue Fund for Bomet County for the financial year ended 30th June 2022 for debate and consideration.

Signed .... Date 28/08/2024.

Hon. Charles Langat

Chairperson, County Public Investment and Accounts Committee

1.6 Committee Ownership

We, Honourable members of the County Public Investments and Accounts Committee do hereby append our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity :-

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Charles Langat	Chairperson	
2.	Hon. Denis Kiplangat	Vice Chair	
3.	Hon. Anne Leonard Rotich	Member	
4.	Hon. Olivia Koske	Member	
5.	Hon. Caroline Chepkemoi	Member	
6.	Hon. Denis Busienei	Member	
7.	Hon. Richard Rutoh	Member	

2 THE COMMITTEE REPORT ON THE ISSUES RAISED BY THE AUDITOR GENERAL FOR THE FINANCIAL YEAR 2019/2020

2.1 Introduction

The County Assembly of Bomet received the Auditor General's report which was subsequently tabled and referred to the County Public Investments and Accounts Committee on 26th April 2023. In dealing with the report, the Committee invited the County Executive Committee Member (CECM) for Finance and Economic Planning, the Auditor from the Office of the Auditor-General, and other witnesses to respond to all the audit queries raised in respect of the report of the Auditor-General on the financial statements of Receiver of Revenue for the Year ended 30th June 2022.

2.2 Committee Proceedings

The Committee held a total of two sittings to deliberate on the issues raised by the Auditor-General. On 15th and 16th May 2024, CECM for Finance and Economic Planning, the Auditor, and other witnesses appeared before the Committee and responded to the audit queries for the year under review.

The CECM for Finance and Economic Planning was tasked to explain in detail all the measures the County Executive has put in place to ensure that public funds are expended in compliance with the law. During its sittings, the Committee closely examined and heard evidence from the witnesses and reviewed various relevant documents including the response by the CECM for Finance and the analysis and comments of the Auditor-General on the response by the CECM.

In taking evidence, the Committee was guided by the existing procedures and modalities of operation of the Bomet County Assembly derived from the Constitution of Kenya, the Standing Orders, common practices, rulings, and directives.

2.3 General Overview of the Auditor-General Report for the Period Under Review

The Committee noted that the Auditor-General upon auditing the Financial Statements of Bomet County as Receiver of Revenue as at 30th June 2022 and the statement of receipts and payments, the statement of cash flows and the statement of comparison of budget and actual amounts for the year ended and summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and section 35 of the Public Audit Act, 2015, was able to express a **Qualified Opinion**. The Committee further observed that the basis for Qualified Opinion was presentations of financial statements that fairly complied with International Public Sector Accounting Standards (Accrual Basis) with the Public Finance Management Act, 2012

3 RESPONSES, OBSERVATIONS, AND RECOMMENDATIONS ON ISSUES RAISED IN THE AUDIT REPORT

3.1 Unreconciled Transfers to Revenue Account

The statement of revenue and transfers reflect total transfers to revenue account of Kshs 201,510,561. However, the county Revenue Fund bank statements provided for audit reflects an amount of Kshs 368,308,569 resulting to unreconciled variance of Kshs 166,798,008. In the circumstances, the accuracy and the completeness of transfers to revenue account amount of Kshs 201,510,561 could not be confirmed.

Management Response

The CECM in charge of Finance submitted that the total amount received under own source revenue is Kshs 201,510,561 as reported in the statement of revenue and transfers of the receiver of Revenue Statement and in the audited County Revenue statement. Included in the analysis by the auditor is amount from Donor funds of Kshs 166,798,008.40 which is not Own Source Revenue. The schedule indicating the transfers from donor funds and the audited county revenue fund statement was availed for audit verification and marked as **annex 1.**

Committee Observation

The Committee as observed as follows;

i. The management provided adequate explanation together with documentary evidence. Kshs. 201,510,561 is own source revenue supported by weekly remittance statements attached as evidence. Kshs.166,798,008 relates to conditional grants from donors.

ii. The Committee marked the matter as **resolved**.

However, the Committee was concerned by the failure by the Accounting Officer to avail explanation and documentation at the time of audit.

Committee Recommendation

The Committee recommends that the Accounting Officer **must** always ensure that all the necessary documentation and information are provided during audit.

3.2 Arrears of Revenue

During the year under review, the property register/land register reflected arrears in property rates amounting to Kshs 343,141,802 (2020/2021- Kshs 297,884,902) resulting to increase of land rent arrears by Kshs 55,256,900 or 25%. The huge increase is an indication of inadequate enforcement mechanism on revenue collection particularly on land.

Management Response

The CECM Finance and Economic Planning submitted that the property rates and rent included accumulated penalties of Kshs 220,503,232 over time which has seen the rates ballooning to the current amount from the actual arrears of Kshs 122,638,570. He further submitted that during the financial year under review the County Government had no revenue administration policy which would have enabled enforcement of revenue collection on this stream of revenue following various futile demand notices. This has, however, been established through Bomet County Revenue Administration Bill which is currently due for public participation and subsequent passage as an Act of the County Assembly.

In addition, he submitted that the County Government of Bomet was using an outdated rate inherited from the former Local Authority. However, review of valuation roll is ongoing and will result in increased collection of property rates. He finally stated that most of the properties in the county under review are dormant and have not been developed hence reducing revenue collections in property rates. He submitted a copy of Revenue Administration Bill marked as **Annex 2.**

Committee Observations

The Committee as observed as follows;

i. The management still experience challenges in collection of property arrears due to lack revenue administration law which still a bill.

ii. The Committee marked the matter as **unresolved.**

Committee Recommendation

The Committee recommends that the CECM in charge of Finance must put in place practical measures to enhance revenue collection, especially for outstanding land rates and related revenue streams. The CECM should provide a commitment to the County Assembly within one month after the adoption of this report.