

MURANG'A

P.O BOX 731-10200

MURANG'A COUNTY ASSEMBLY

CLERK'S CHAMBERS

MAY 25, 2023

CA - HRRC
Not in the
SP file
18/6/2023

THE SELECT COMMITTEE ON PUBLIC INVESTMENT AND ACCOUNTS
REPORT ON AUDITED FINANCIAL STATEMENTS FOR FORT BEVERAGE INDUSTRIES COMPANY
LIMITED FOR THE YEAR ENDED JUNE 30, 2019

THIRD ASSEMBLY – SECOND SESSION

MURANGA COUNTY ASSEMBLY

MURANG'A COUNTY ASSEMBLY
Received Clerk's Office
13 JUN 2023
SIGN: P.O. Box 731 - 10200, MURANG'A



REPUBLIC OF KENYA

REPORT ON AUDITED FINANCIAL STATEMENTS FOR FORT BEVERAGE
INDUSTRIES COMPANY LIMITED FOR THE YEAR ENDED JUNE 30, 2019

1.0 Preface

Hon. Speaker, Committees of this Assembly are a creation of Section 14(1a) of the County Government Act 2012, which empowers the Assembly to make Standing Orders (SO) for the orderly conduct of the Assembly proceedings, including the operations and proceedings of its Committees. The Standing Committee on County Public Accounts and Investments is established by the Murang'a County Assembly Standing Order 199 which mandates it to undertake the following:

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

2. The examination of the reports, accounts and workings of the county public investments;

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

Provided that the Committee shall not examine any of the following, namely:

1. Matters of major County or National Government policy as distinct from business or commercial functions of the public investments;

2. Matters of day-to-day administration; and,

3. Matters for the consideration of which machinery is established by any special statute under which a particular county public investment is established.

Honorable Speaker, The membership of the Committee comprises of the following Members of

County Assembly-

- | | |
|-------------------------------|------------------|
| 1. Hon. Alex Ndunda Makau | Chairperson |
| 2. Hon. John Munyua | Vice Chairperson |
| 3. Hon. Loise Mbogo | Member |
| 4. Hon. Kenneth Kamau Mwangi | Member |
| 5. Hon. Moses Gachui Mungai | Member |
| 6. Hon. Morris Thuku | Member |
| 7. Hon. Thomas Muteti Mwaura | Member |
| 8. Hon. Isaac Njoroge Cherman | Member |
| 9. Hon. Gathae wa Njeri | Member |
| 10. Hon. Steven Muigai | Member |
| 11. Hon. Pauline Muchiri | Member |

Honorable Speaker,

The Public investments and accounts committee recognizes that it is the major avenue through which this county Assembly executes its oversight mandate provided for in Article 185 of the constitution and Section 8 of the County Government Act 2012. The committee is therefore dedicated to diligently carry out an ex-post scrutiny of the budgets of the county executive, county agencies and county investment entities and the subsidiaries thereof.

1.1. Acknowledgements

- a) The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the County Assembly for the necessary support extended to it in the Execution of its mandate.
- b) The Chairperson of the Committee takes this opportunity to thank all Members of the Committee for their diligence and commitment to inquire and analyze the audit reports.
- c) The Committee is also grateful to Fort Beverage Industries Company Limited officials that adduced evidence before it.
- d) The Committee wishes to record its appreciation for services rendered by the staff of the County Assembly attached to it. Their efforts and input made the work of the Committee and production of this Report possible.

On behalf of The County Public Investment and Accounts Committee, pursuant to Standing order No. 193 (6), it is my pleasure and duty to present to the County Assembly, the Committee's report on the financial statements of Fort Beverage Industries Company Limited for the year ended June 30, 2019.

Thank you.

Signed.....


Hon. Alex Ndunda Makau

(Chairperson)

Committee on The County Public Investment and Accounts

Dated this..... day of 2023
13 6

2.0 Background of the Report

Honorable Speaker, this Report covers operations of the Fort Beverage Industries Company Limited for the year ended June 30, 2019, and it is prepared by the committee after analysis of the report by the Auditor-General who has the mandate under Article 229 of the Constitution to audit and report on the accounts of the County Governments and their investments.

2.1 Legal Framework

The 2010 Constitution established a new system of public administration in Kenya. This included a shift in public finance management operations from the national government to the county governments. This shift in public finance management was to facilitate the operationalization of the devolved government functions in part 2 of the 4th schedule of the constitution. The standardization, controls, monitoring, evaluations and accountability structures are largely within the national government. The operations of this committee are therefore largely dependent on the support from the national government expenditure standardizations and monitoring deliverables from the national government entities.

The Water Act 2015 established a new framework in the management of water and sanitation services in the country. Key to the changes was the establishment of Water and Sanitation service framework that is open to body corporates. The Water and Sanitation function has been under Water and Sanitation companies established under the Companies Act 2016.

State Corporations Act CAP 446 requires the directors of public owned entities to prepare financial statements that gives a fair view of the entity's operations keep or cause to be kept accurate financial records within the established professional standards to give a fair view of an entity's financial position and safeguard all the Assets owned by an entity.

The Murang'a County Water Act 2018 aspires to streamline the operations of the Water and Sanitation companies which are entities that operationalize the implementation of the devolved water functions.

The Constitution under Article 201 outlines the principles of public finance management to be observed at both levels of government and these include - openness, and accountability, public participation, prudent and responsible financial management. Further, to enforce this accountability, the Constitution sets various institutions at the national and county levels to ensure promotion of accountability, and openness for prudent and responsible financial management.

2.2 Office of the Auditor General

The Office of the Auditor General forwards Reports on the financial operations of the County Governments and its entities for specific financial years to the County Assembly pursuant to the provisions of Article 229(7).

The Office of the Auditor General forwarded report on the financial operations of the Fort Beverages Industries Company Limited for the financial year 2018/2019. The reports, once tabled in the Assembly were committed to the Public Investments and Accounts Committee.

2.3 Issues for Determination

The main issues for investigation and determination were the various audit queries contained in the report of the Auditor General on the Financial Operations of Fort Beverages Industries Company Limited for the financial year 2018/2019. This report was issued in compliance with Articles 96 (3), 229(8) of the Constitution of Kenya and County Assembly Standing Order 193.

2.4 Guiding Principles

The committee in making its recommendations took into accounts the responses given by the Fort industries management, challenges faced by the company during formation and the impact of the subsidiary to the parent company and the community at large. The committee sought to enshrine accountability and professionalism in Fort Beverage Industries Company Limited while ensuring an efficient operation environment within the transition period from MUWASCO management to a body corporate subsidiary.

Where any breach of law has an attendant remedy provided for by any legal instrument in the country and the country, consequence or penalty in law, recommendations of this report do not

preclude anyone, whether a public officer or not, from liability that may arise as a result of any legal action within the breach of the prescribed law.

2.5 Committee Proceedings

Honorable Speaker, the County Assembly received reports by the Auditor General on the financial operations of the Fort Beverage Industries Company Limited for the year ended June 30, 2019. The report was tabled in the house on December 01, 2022 and therefore stood committed to the Committee on Public Investment and Accounts for consideration.

The Committee has held several meetings with the management team of Murang'a Water and Sanitation Company that owns the Fort Beverage Industries Company Limited to discuss on the Auditor General's report. The sittings were primarily investigatory and the committee received evidence and management response from the managing director.

The committee further conducted a fact finding visit to the company with regards to the audit queries.

2.6 Key Audit Queries:

The following were the key audit queries;

1. Unsupported Trade and other payables
2. Undisclosed share capital
3. Budget performance and control
4. Irregular procurement of production and maintenance materials

Other queries

1. Company's going concern
2. Transfer of company's building and motor vehicles from Tana Water Works Development Agency to the County Government

3.0. Background information on Fort Beverage Industries Company Limited

The company was incorporated on 28th December 2016 under the companies Act 2015. It is a subsidiary owned by Murang'a Water and Sanitation Company. This is a private company limited by shares. The nominal capital for Fort Beverage Industry Limited is Kshs.100,000 and divided into 1000 shares of Kshs. 100 each. The Managing Director has been allotted 200 shares held in trust for the company. This is for registration purposes where a company must have a natural person as a shareholder. The Managing Director has since allocated his shareholder rights to Murang'a Water and Sanitation Company through an executed power of attorney declaration. The Principal Activity of the company is to produce and sell bottled water. It envisages commercial operations for profits to be re-invested to the parent company MUWASCO to improve affordability of piped water across the distribution area.

4.0. Observation and Recommendations

In examining the audited accounts of Fort Beverage and Industries Company Limited, the Committee's primary approach was to elicit background information as to why particular course of actions were or were not taken, keeping in mind the relevant financial management principles and regulations.

This is the foundation of the Committee's observations and recommendations.

4.1 Auditor's opinion

The auditors' opinion for the financial year was **qualified** in that although the record books were well displayed there were issues raised. These issues nevertheless were not pervasive.

4.2. Unsupported Trade and other payables

Audit Query

The statement of financial position reflected trade and other payables totalling Kshs. 10, 626, 335 as at 30 June 2019. The supporting schedule reflected payables totalling Kshs.10, 309, 034 resulting to unreconciled variance of Kshs. 317, 301. As a result, the accuracy and completeness

of the trade and other payables balance totalling Kshs. 10, 626, 335 as at 30 June, 2019 could not be confirmed.

Management Response

The General Manager submitted as follows:

- ✓ That trade and other payables were worth Kshs. 10, 626, 335. That the unsupported payables are worth Ksh.417, 301 and not Ksh.317, 301 since MUWASCO Payables were worth Ksh 10,209,034 and not 10,309,034.
- ✓ That the payables worth Kshs. 417, 301 was owed to:

- i. Suppliers and other creditors worth Ksh.161, 367
- ii. Staff deductions worth Ksh.255, 935 and are captured in the financial statements note 14 page 27.

Committee Observations

The Committee observed that;

1. The committee could not confirm the creditors since no supporting schedules were availed for authentication.
2. The company was in breach of Public Audit Act 2015 section 62 for failing to provide supporting schedules of the payables to the auditors and to the committee for review.

Committee Recommendations

The Committee recommends that;

1. Going forward, creditors who are not confirmed through supporting schedules should not be captured under company's payable and subsequently should not be paid
2. Fort Beverage Industries Management should avail the company's to the Office of the Auditor-General supporting schedules of the creditors worth Kshs.417, 301 further scrutiny in order to clear the audit query in line with Section 53(1) of Public Audit Act No 34 of 2015 within 30 days.

4.3. Budget performance and control

Audit Query

The company realized sales totalling to Kshs. 8, 889, 878 equivalent to 60% of the budgeted sales for the year amounting to Kshs. 14, 848, 618. Further, the company incurred expenditure totalling to Kshs. 9, 811, 917 or 88% of the final budget amounting to Kshs. 11, 202, 751.

Management response

The Managing Director in his response, submitted as follows:

1. That budget is approved by the board of directors.
2. That the approved budget sales of Kshs. 14, 848, 618 was informed by the Previous year performance and projections where they had anticipated to do better.
3. That the company did not realize its approved budget sales in the audited year due to stiff competition in the market where some bottled Water Company sold water at a cutthroat prices.
4. That the company had not penetrated the market but currently it's doing well and they expect to break even. That the sales have improved from 5.2 M to current anticipated 20 M by June this year.
5. That they had a marketing policy that would be provided to the committee by close of day.
6. That all expenditures were approved by the board. No minutes were provided to support the allegation.
7. That the overall expenditure was within the budget but the budget total had arithmetic error and the total budget was 15.9 M and not 9.8 M.

Committee Observations

The Committee observed that;

1. That the company contravened FFM Act 2015 section 42 through reallocation of money during implementation of the budget that led to over expenditure on different votes totalling to Kshs.756, 030 without approval since no factual minutes were provided for review.
2. That the company did not avail a marketing policy for their operations to the committee

3. That the company had an expenditure that exceeded its sale by Kshs.922, 039.
4. That the company during its budget making process made an error of Kshs. 6.1 M that was not corrected throughout the entire year.

Committee Recommendations

1. That the company should make re - allocation in the budget as per the provided guidelines in the PFM Act, 2015.

2. That the Company should ensure that a policy on marketing is in place and copies submitted to the Auditor General within sixty (60) days from the adoption of this report
3. That in future, the company should ensure that their expenditure is below their sale and ensure that the personnel cost is within the stipulated ratio of 35% as per the WASREB Regulations.

4. That the company should engage the County treasury for Budget formulation, implementation and monitoring to avoid errors in the final budget.

4.4. Irregular procurement of production and maintenance materials

Audit Query

Examination of expenditure records indicated that Ksh. 2, 640,455 was spent on purchase of various production and maintenance materials procured from five non-qualified suppliers, contrary to section 57 of the Public Procurement and Asset Disposal Act, 2015.

Management Response

The Commercial Manager reported as follows:

1. That the company was relatively new and there was a shortage of packaging plastics in the country.

Committee Observations

1. That the audit query was an unresolved issue from the prior year where supporting documents presented for review to the committee were not in line with the money in

question making them false and inaccurate.

2. That the head of procurement contravened the Public Procurement and Asset Disposal Act, 2015 Section 57 by procuring from non-prequalified suppliers.
3. That the company failed to provide documentation on the non-prequalified suppliers to the committee for examination of their eligibility to bid for contract.
4. That the company in two years had not proven how they spent Kshs.2, 640, 445 on purchase of various materials to both the auditors and the committee.

Committee Recommendations

1. The Committee recommends that the County Executive Committee Member for Water and Sanitation as per the Public Audit Act 2015, Section 62 should take administrative action against the officer who failed to provide the documents to the Auditor General and to the Committee within Sixty (60) days from the adoption of this report.
2. The Committee recommends that the County Executive Committee Member for Water and Sanitation takes administrative action against the responsible officers in the company for professional negligence on procurement regulations.

3. The committee recommends that the company submits supporting documents on purchase of goods and services worth Kshs.2, 640, 445 to ascertain the value for money
4. The Committee further recommends that company submits to the committee the list of their prequalified suppliers.

4.5. Company's going concern

Audit Query

Under revenue reserves, the company made a loss of Kshs.2, 345, 884 in the year totalling to Kshs.7, 185, 881 loss in two year. This company is completely dependent and unstable. It continue using Public money to make loses and does not achieve its mission of making profit to plough back to the parent company.

Management response

The Managing Director submitted as follows;

That the company made a loss of Kshs.7, 185, 881 in the year since it was in its formative stages. He assured members that the company is now able to pay its employees and cost of production. He urged members not to recommend closure of the company promising that the company will soon be able to make profit for re-investing to the parent company as earlier envisioned.

Committee Observations

1. That the company fails to meet its principal mission which is to make returns that will be reinvested in the parent company for provision of affordable piped water and instead makes losses that continue to eat to the parent company.

2. That the company dependence to MUWASO disadvantages the people of Murang'a since money meant for provision of water goes to fund the operations of Fort Beverage Industries Limited.

Committee Recommendations

1. That the Board of Management of the company should formulate a strategy to ensure that they yield returns to avoid dependence on the parent company and to achieve their main mission.

5.0 GENERAL COMMITTEE OBSERVATIONS

The Committee observed that –

1. The company contravened Public Audit Act 2015, Section 62 by failure to submit documents for Audit to the Office of Auditor General
2. The Company contravened the law by Failure to submit documents for examination and investigation to the committee
3. The company lacked policies to guide its operations.
4. The company failed to comply with the Public Finance Management Act, 2015 and Public Procurement and Asset Disposal Act, 2015 during reallocation of Budget and procurement respectively.
5. The committee notes that the company's building and motor vehicles are still held under Tana Water Works Development Agency despite the water company being devolved to the County Government.

6.0 GENERAL COMMITTEE RECOMMENDATIONS

The Committee having made the observations recommends as follows-

1. The Committee recommends that the County Executive Committee Member for Water and Sanitation should take administrative action against the officer who failed to provide the documents to the Auditor General and to the Committee within Sixty (60) days from the adoption of this report.
2. The Committee recommends that the County Executive Committee Member for Water and Sanitation takes administrative action against the responsible officers in the company for professional negligence on budgeting standards and procurement regulations.
3. That the County Executive Committee member in charge of Water and Sanitation should give policy guidelines on budgeting, procurement, personnel emoluments and other operational matters to all Water and Sanitation Companies and their subsidiaries thereof to ensure prudent use of public resources.

4. The committee recommends that the County Executive Committee Member for finance should conduct valuation of assets of all water companies. The committee further recommend that the county executive should liaise with the Inter-Governmental Relations & Technical committee to fast track the transfer of company's building and motor vehicles from Tana Water Works Development Agency to the County Government.

7.0. REPORT ADOPTION

The following agreed with the report;

1. Hon. Alex Ndunda Makau 
2. Hon. John Munyua 
3. Hon. Moses Gachui Mungai 
4. Hon. Morris Thuku 
5. Hon. Loise Mbogo 
6. Hon. Thomas Muteti Mwaura 
7. Hon. Kenneth Kamau Mwangi 
8. Hon. Gathee Wa Njeri 
9. Hon. Isaac Njoroge Chefman 
10. Hon. Pauline Muchiri 
11. Hon. Steven Mwigai 