

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 20th November, 2018

The House met at 10.47 a.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR
ORDER IN THE HOUSE

Hon. Speaker: Hon. Members, under this Order, I have several communications to make to the House and the first one, I will have by having order in the House appreciated and complied with by each one of you or any guest we invite to this House.

Why we must have order in the House is about independence and respect of the House and we shall all be failing if we do not have order and respect in the House in particular because the House will lose its space and will not be able to discharge its mandate of representing the people, doing legislation and oversight on the Executive.

I just want to refer to refer to the Standing Orders that regard to Members keeping order in this House and I want to draw your attention and ask you to make it a second Bible to you; the first Bible is the Bible of God that you know because if you don't get it right, you will not be able to discharge your mandate. I request you, in your free time, to read Standing Order 75, 79, 84, 94, 98, 103, 104, 105, 106 and 107.

My communication about being orderly in the House is based on Standing Order 107. Hon. Members, I just want you to listen to the Standing Order provisions that I will read; If any Member shall refuse to withdraw when required to do so, by or under these Standing Orders, the Speaker or the Chairperson of Committee as the case may be, having called the attention of the House or Committee to the fact that recourse to force is necessary in order to compel such Member to withdraw, shall order such Member to be removed and such Member shall thereupon without question put be suspended from the service of the Assembly for twenty eight days and shall during such suspension, forfeit the right of access to the precincts of Assembly and the Sergeant-at-arms shall take necessary action to enforce the order.

Hon. Members, on 14th of November, 2018 during the morning sitting, we had a motion that touched on the removal of the CEC Member for finance and economic planning. There was disorder in the House coming from some of the Members. The Speaker called particular Members to order severally. Some of the Members still insisted on remaining standing, some of the Members were shouting back and recourse of force to remove them had to be resorted to.

The Speaker called the Sergeant at arms and removed by force a number of the Members. The report I have from the Sergeant at Arms specifically the Sergeant at arms in charge, Kiptum; some of the Members, even after being removed from the House continued to engage the Sergeant at arms by acts of violence outside the premises of the Assembly; outside this chamber. That one cannot be condoned.

I have stated that we must obey order when we are in this House, when we are in this chamber, there must be order. When you are in the precincts of the Assembly, there must be order, you have Standing Orders and you must abide by them.

The following Members, on that particular day, had to be removed by force:

Hon. Annastacia Mutuku

Hon. Titus Ikusya

Hon. Brian Kisila

Hon. Francis Ngunga

Those four Members, under Standing Order 107, have been suspended from the service of the Assembly for twenty eight sitting days and they shall remain so and shall not access the precincts of the Assembly until that service is ended.

The Sergeant at arms must make sure that those four Members don't come anywhere near the precincts of the Assembly and I see some of the Members seated in the Assembly; please take leave now.

(Applause)

I don't want to call the Sergeant at arms a second time to have the Members exit by force; take leave now.

(Hon. (Ms.) Mutuku and Hon. Kaloki withdrew from the House)

The office of the Clerk, communicate to the Members who are not here in this sitting---

(Loud consultations)

Who is that who is talking? Hon. Mulatya.

Hon. Mulatya: Yes Madam Speaker.

Hon. Speaker: Who is that who has a phone in the House? Hon. Jeremiah? We said we should not have phones in the House; Sergeant at arms, bring the phone here. Hon. Jeremiah, can you be on your feet.

(Hon. Munguti stood in his place)

It is a warning; it is warning to you too

Hon. Mulatya: I apologize.

Hon. Speaker: I am not going to tolerate any disorder in this House; it does not matter from whom, you must behave yourself. Sit down.

(Hon. Munguti resumed his seat)

As I was communicating, the Members who were not here and who have been named for suspension for twenty eight sitting days from today, the decision of the Chair is being made today, those members who are not here, I noticed it is Hon. Brian Kisila and Hon. Francis Ngunga, the Clerk's office must communicate to those Members in writing today.

CONSTITUTION OF THE COUNTY ASSEMBLIES FORUM (CAF)

Hon. Members, there is further communication from the chair. There is a communication on the review of the constitution of the County Assemblies Forum (CAF). Hon. Members, CAF is a forum that brings together the County Assemblies so that they can agitate for the interestS of the County Assemblies and there is an existing constitution that has been tested for just one year but in the process of implementation it is noted that that constitution needs review. An *ad hoc* committee has been set up to spearhead the process and it consists representatives from the eight clusters; maybe members you may not know, in that CAF and I hope your representatives keep you informed of CAF happenings.

Hon. Mutiso and Hon. Pauline Mene represent you in CAF and it is operated in the basis of clusters; what we used to call provinces representatives are elected from those provinces because we are in a cluster with Makueni, with Embu, Meru just the way it used to be Eastern province and even Marsabit so we are in that one cluster and you are represented by the two members I have named.

So, from each cluster there is a committee member that has been picked to spearhead that process; please interest yourself ask your representatives for copies of the constitution so that you can also look at it and do your contribution, kindly.

NOMINATION TO THE COUNTY ASSEMBLY SERVICE BOARD

There is also a communication of nomination to the County Assembly Service Board. This is your service board; you remember members that on 14th November, 2018 Hon. Francis Kalumu moved a motion in this house requesting that the House resolves to dissolve the County Assembly Service Board since it had become difficult for the board to transact its business and so of course if it was not transacting business, the welfare of the members and of the staff and the operations of the Assembly generally was put into jeopardy and following that motion which you passed Hon. Members, the following communication has been received because members you remember in the same motion you resolved that the Assembly parties represented do nominate one member depending on their priority on numbers.

Remember there are only two slots and so in line with that the following communication has been received; the letters are here with the Chair.

1. The NASA coalition has nominated Hon. Grace...what are the full names of, and Clerks please learn to put full names of the members; Hon. Grace Munini Mutwiwa to be their representative in the Machakos County Assembly Service Board.

2. The Maendeleo Chapchap (MCCP) has nominated Hon... I want the full names. I only have Caleb Mule what are the full names of Hon. Caleb Mule.

(Loud consultations)

Thank you, Hon. Ndawa. The Maendeleo Chapchap has nominated the Hon. Caleb Mutiso Mule to be representing them in the County Assembly Service Board. Hon. Members, we still received a further communication from the Jubilee Party which is an Assembly party, remember going by the numbers in the House. It has nominated Hon...I need the full names, I am having just Moffat Maitha, we have full names of the Hon. Member? They have nominated the Hon. Moffat Muia Maitha.

Hon. Members remember under Section 12(3) of the County Governments Act as amended by Section 46 and 47 of the County Assembly Services Act, the board is to consist of two members nominated by the political parties represented in the Assembly according to their proportion of numbers in the Assembly.

I thank all the political parties represented whom I have read out in the foregoing because they had given their nominations but however Hon. Members, remember that on the percentages, the political parties or coalition parties are normally NASA Coalition which has over 50 percent, we have the MCCP Maendeleo Chapchap which has over 20 percent, we have the Jubilee Party which has about 6 percent and we have the NARC party which has about 5 percent. So going by that provision, the members who will represent the different political parties would be as follows because there are only two slots and we have three nominees.

It will be as follows; Hon. Grace Munini Mutwiwa for the NASA coalition and Hon. Caleb Mutiso Mule for Maendeleo Chapchap party. I wish to congratulate, on behalf of the Assembly those members who have been nominated to sit in the CASB and I want to urge them to make sure they serve the members with all the dedication that is called for because it is the high time that these members and the staff are served effectively. Remember the reasons for dissolving the first board was that it was not operating effectively. Make sure you do not fall in the same trap; I wish you well the two Hon. Members.

DISRUPTIONS TO SITTINGS OF THE HOUSE

Hon. Members, there is a further communication and this is about disruptions of the sittings of the House which I addressed in the first communication. You remember on two occasions Hon. Members, the first one was *bunge mashinani* in Kithimani and then the sitting I referred to earlier in this Assembly of 14th November, 2018. On those two occasions, the security, health and lives of members have been put to risk by some not so well meaning elements; some of them I do not doubt amongst ourselves others maybe from outside whose sprayed pepper spray during meetings of the Assembly.

Hon. Members we have an *ad hoc* committee that is working on this matter and much as I urge that committee to expedite the investigations on the Kithimani incident, I also want to caution members that if you are any of the agents who are bringing pepper spray to the functions of the Assembly, you are not being fair to yourself because we breathe the same air, you are not being fair to your colleagues, you are not being fair to the people you represent or the sectors of the society that you represent and you are only digging your own grave and it is very sad that one would dig their own grave.

The Assembly out there is watching; you are spraying pepper so that the business of the Assembly is stopped and that is a very crude way of doing things; it shouldn't be of any Hon. Member, it shouldn't be of anybody associated with an Hon. Member and so again the Assembly is instituting investigations into the incident that happened in this chambers on the 14th day of November, 2018 and I just want to notify members and I know you agree with me that the culprits should be dealt with very seriously by the law as is provided.

TRAINING OF FEMALE MEMBERS OF THE ASSEMBLY

Thank you, Hon. Members, the final one is about training of the female members of this Assembly. I know at one point the male members complained that the female members of the Assembly are having too many trainings but they are not being favored; it is because you have not come up with an association of yourselves. Why you have not come up with it is because you are okay; you do not need interventions but the female representatives need interventions they need to be capacitated.

So, to that end, there is a planned training for the female members of this Assembly courtesy of the County Assemblies Forum that I referred to earlier on and it is going to be funded women by UN women, there is an organization under the United Nations organization UN women.

It is going to be for two days and it is going to be on the title 'executive women in leadership' and the curriculum is developed by CAF in conjunction with the Kenya School of Government so you can see the ladies are to be trained on how to be a good leader and an effective leader and so this program is going to take place at the Sarova Panafric Hotel, Nairobi from 24th to 27th of November, 2018 and the training days are Sunday 25th and Monday 26th 2018. Facilitation will be done for the female members of this Assembly to attend. Please prepare yourselves to attend.

VETTING OF CHIEF OFFICERS

Finally, Hon. Members, vetting of Chief Officers; you remember, Hon. Members under section 9(1) of the Public Appointments (County Assemblies Approval) Act, you need to approve the list that was brought to this Assembly by the Governor of COs and County Secretary, if my memory serves me right. The communication from the Governor was received by the Assembly on 1st August, 2018 and I communicated the contents of the communication on 7th August 2018 and Hon. Members I want to remind you that under Section 9(1) of the Public Appointments (County Assemblies Approval) Act, the Assembly has 21 sitting days from the day the committees sit to hear the candidates and prepare a report and file it in the Assembly for debate and resolution and going by the dates of the communication and the dates you started interrogating the names, the Assembly has up to 4th of December, 2018 to debate finalize and make a report to the Executive.

The attention of the Assembly is drawn to a purported appointment of those very candidates by the Governor just a few days ago. The attention of the Assembly is also drawn to a purported gazettement and swearing of those officers. Hon. Members, remember you have a duty to interrogate that list irrespective of the games going outside the Assembly and to make a report as is required.

(Applause)

So, the Chair is reminding the committees to finalize the reports and whichever committee is ready, present your reports to the office of the Clerk so that it can be placed before the House Business Committee for balloting, discussion and resolutions on the contents of the report. Hon. Members, it has been a long communication but I have no doubt that the matters communicated have been received clearly by each one of you.

MOTION

Hon. Speaker: Hon. Members, because the Chair has the opportunity to address you again at this point, I just want to again ask each Member to read the Standing Orders and understand; at this point you don't interrupt the business and the reading of the Order Paper. Please have that in mind. I noted that Hon. Ndalana was saying that there is a point of concern. It is the right of every Member to be heard but only at the right time. So, Hon. Ndalana will wait until we finish the Order Paper. Hon. Kiteng'u.

ESTABLISHMENT OF MACHAKOS WATER COMPANY TO SUPPLY WATER TO MASINGA RESIDENTS

Hon. Kiteng'u: Thank you, Hon. Speaker.

Hon. Speaker, that aware that the mission for the department of water and irrigation in Machakos County is to contribute to County development by promoting and supporting water resource management in order to enhance water availability and accessibility to all and that Article 174 of the Constitution provides that some of the objects of devolution are to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them and that in addition to recognizing the right of communities to manage their own affairs and to further their development and that most aspects of water supply is a devolved function;

Cognizant that Kitui Water and Sanitation Co. Ltd (KITWASCO) is a limited company by guarantee that was incorporated on 10th April, 2006 with core mandate of providing water to Kitui County, its environs and part of Machakos County where the main source is located that is Masinga dam;

Informed that the main water pipeline for this company crosses Kivaa Ward all the way to Kitui Town but with subsidiary supplies to Kivaa and Masinga Central Wards including Masinga Township and many smaller urban centers within the sub county;

Aware that the established water Kiosks in Kivaa Ward have been collapsing one after another due to poor management by water vendors and KITWASCO hence leaving the residents without dependable water supply and that policies that run KITWASCO are for Kitui County;

Madam Speaker, I wish to move the Motion that the County Government of Machakos liaises with relevant water bodies to assign a water company based in Machakos County the mandate to supply water to the residents of Masinga Sub-County to ensure efficient supply.

Thank you Hon. Speaker. I wish to call Hon. Tariq Mulatya to second my motion.

Hon. Speaker: Thank you, Hon. Kiteng'u. Hon. Mulatya.

Hon. Mulatya: Thank you, Madam Speaker. As I second this motion, I would urge these Hon. Members and enlighten them on a few things on this issue. KITWASCO, draws water from Masinga Dam and they hold all accounts in Kitui. This water was meant for Masinga, Kivaa, Ekalakala, Matuu and Ndalani wards. So all these like Matuu and the rest have not benefited so as we discuss this motion, kindly Members note that our resources are taken to another county where they are being consumed. Thank you, Madam Speaker. I second.

Hon. Speaker: Thank you, Hon. Mulatya.

(Question proposed)

Hon. Members, the motion is now open for debate. Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I would first start by congratulating the Hon. Member who is my neighbor, Hon. Kiteng'u. The motion before this House is long overdue, it out to have discussed some days or months that have already passed. Madam Speaker, there is a policy in our country which says feed the nation then export. When we grow crops here, we cannot export to other counties unless our people are satisfied. This water comes from Masinga which is in Machakos County and its unfair if residents of Masinga, Kivaa, Ekalakala, Ndalani and Matuu are going to stay without water when water is going to Kitui.

Madam Speaker, we kindly request this Hon House to approve this motion so that action can be taken so that we can arrest the situation. Madam Speaker Article 43(1)(d) talks about rights for Mwananchi to get water. Water is life and is also provided for in the constitution so I would request that we move with speed.

The other issue I would like to raise is that if the kiosk can't supply water or whoever is manning that kiosk that fetch water from are employees of Kitui. It means that all the resources received in that kiosk eventually will be banked to Kitui County. We as the owners of this water are going to be left with nothing. Kitui residents are our neighbors, our sisters and brothers and we cannot say they should not take water; what we are saying, let Kitui residents get water and also Machakos residents too because we all belong to Kenya and we need each other.

The other issue, I would request Madam Speaker is that we need to have connections in that main pipe because I believe there is a contract which was signed between the Kitui County Government and the owners of the dam and it was agreed that that was the last pipe to be taken to be taken from that dam; it is not possible for us to apply to have our own pipe. If that is the last one, we kindly request that we share the same pipe and ensure locals of Machakos benefit from what is theirs because the water is ours. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Ndawa. Hon. Nziva.

Hon. Nziva: Thank you, Madam Speaker and Hon. Members present. Madam Speaker, allow me to thank God because yesterday results in Ikombe Day and Boarding emerged the best school in the county. They actually did exemplary well and I thank God for that and I urge Hon. Members to go and benchmark in that school.

I would like to applaud the mover of the motion who is also my neighbor because Yatta and Masinga are neighbors. The people of Masinga need water since water is life and cleanliness is second to Godliness. If we get enough supply of water, if the residents of Masinga get enough supply of water, really there will be more advantages.

For example, the economy will improve; public health and the environment will be superb. Madam Speaker, in the developing countries we know water has several benefits like water helps to maximize physical performance, hydration which has a major effect on energy levels and water relieves constipation.

We know when we have enough supply of water people will also do irrigation in their farms and the economy will also be improve. So, I kindly request the committee of water moves with speed so that the people of Masinga get enough supply of water and the ground water does not get polluted. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Nziva. Hon. Musyimi.

Hon. Musyimi: Thank you Madam Speaker, for giving me this opportunity. I support the motion, realizing that water is life and it is a necessity in our lives. Still, I have a question in the Order Paper, Madam Speaker. While the Hon. Member was reading the Order Paper, I noted that he left a word in the last paragraph second line; he left the word 'local.' While also you were communicating I noticed you also left the word; should it be in the Order Paper or was there to be a correction.

Hon. Speaker: Hon. Musyimi, just sit and I will clarify it for you. When I was given the Order Paper, the corrected version was amended and I proposed the question as follows; that the County Government of Machakos liaises with relevant water bodies to assign a water company based in Machakos County the mandate to supply water to the residents of Masinga Sub County to ensure efficient supply.

So the fact that the water company is to be based in Machakos County means it is local. Actually, that word local is ordinarily not properly used so the minute you say Machakos County it makes it local. So, it was also amended during the notice when the mover was moving. Don't worry; it is going to be local because it will be within Machakos County. Proceed and finish your contribution.

Hon. Musyimi: I am through, Madam Speaker.

Hon. Speaker: Thank you. Hon. Kamitu.

Hon. Kamitu: Thank you, Madam Speaker. I support my brother Hon. Kiteng'u, MCA Kivaa and on this regard I would also request our secretariat because in the previous Assembly, we had the same case. There is a committee that went to Kivaa on the same concern, water being taken from Masinga dam and taken to Kitui straight and as a committee we went there when the

piping was being carried out by a certain firm that was given the contract of drawing water from Masinga to Kitui.

We agreed that before the water was taken to Kitui as per the contract design, the water was supposed to be taken up to the hill as a T-junction and that is why I am saying our secretariat should check on those reports so that as we look at our today's concern; it is important for people of Machakos when we talk about brotherhood and sisterhood, water should be given first to Machakos because that is where the source is coming from.

So, I support that Masinga people first should be given the first priority in regard to water supply. Thank you, Madam Speaker.

Hon. Speaker: Thank you. Hon. Kamitu. Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. I would like to thank the Hon. Member for Kivaa for this timely motion which has been brought before this House to compel our county government to form a local company based and has residents in Machakos County to form such a company which will be able to take off from KITWASCO. As previous members have said it beats me why we are paying for our own water. How do you get water from me and then you charge me and the profits you make you take to another county. Does it logically make sense?

You take water from Masinga to Kitui and then you charge the people of Masinga for their own water and then the profits you make you go and do development projects in Kitui without benefiting the people where the water is coming from. I think that has been a big anomaly and it is good that the area MCA has noted that we are losing funds.

Kitui is making great strides in most of their development projects because we are also funding them through selling water back to us which is ours. We need to be able to close all loopholes on financial revenue and ensure we collect as much revenue as we can from within our natural resources which we are endowed with.

As part of this South Eastern Kenya Economic Bloc which is coming up and sharing of resources through it we are talking about enacting legislation and things which will be able to cut across the three counties. If Kitui does not have water and Machakos has water, then Machakos needs to benefit from being able to sell that water to Kitui and if Kitui has coal, Machakos needs to benefit from Kitui selling their coal and then everybody is maximizing on their natural resources which they have been endowed with by the Lord. If we have been endowed with water, let us make the best of water; if we have been endowed with sand, let us make the best of sand.

I have attended several PAIC committee meetings which have reviewed the performance of water companies and I can assure you it is not a good reading. Most of the reports which have been brought to the PAIC audit reports on these water companies have not been a very interesting read because most of them are making losses.

Key to their making losses has been lack of proper management at the company level; right from the directors who have been appointed to manage those companies to the professionals who are employed by those water companies to ensure that they take care of water company's things. What do I mean by this?

What I mean by this is that we have seen over and over again partisan appointments to the running of water companies instead of following the laid down law which is there laid by the.....we have laws which dictate how water companies directors or water companies should be appointed. We are seeing political appointees to such water companies. I can assure you Hon members even if we MAWASCO and the same procedure is followed then the profits which

were being made by Kitui will disappear and restart making losses just like the other water companies.

So, I would like the selection of the members of the board of these water companies or this MAWASCO if it is formed to be done in a professional way and in accordance with the law so that the water companies can be ran as professional companies and not political entities. It is high time we differentiated companies from political entities, when you talk about a water company, then you are talking about now professionalism, you are pumping in County money into an entity in an investment which you expect to get fund out of so that the investment can become viable.

But if I go ahead and form such and allocate money such an investment and then I appoint somebody who is not qualified to ran that company and that company starts making losses, then that investment is in vain and will have lost an opportunity in making funds, in doing viable business in our County.

So, in as much as I am in support of this motion, and agree that it should be passed, I also urge the appointing authorities once the companies are formed to ensure that we appoint professionals to run these companies so that we can be able to benefit from them and have objectivity in the running of such companies. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Museku. Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. I support the motion by saying that the people of Masinga or Kivaa first to get the water before it goes to Kitui; they are the ones who are supposed to sell the water to the people of Kitui but not the people of Kitui selling the water to the Machakos people. This is very unfair because they are the ones who are having the water and by the way Madam Speaker, you know that water was in the time of Governor of Kitui that is why they are having that power of the water so they have to think first about the people of Machakos. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Mueni. Hon. Mulatya.

Hon. Mulatya: Thank you once again Madam Speaker. As we deliberate on this motion, there are some few things which we are supposed to put in consideration. People have lost life in struggle of this water, back in the times of late Hon. Col. Kiluta, and former MP Kitui Nyiva Mwendwa it is when there was that struggle when we were young we were in school and they used to fight for this water.

Later when Her Excellency Ngilu, the Kitui Governor when she became the minister for water it is when everything became easier for them in Kitui and that is how they acquired the water but formerly there has been killings in Masinga Central, people struggling for this water, others blocking the water, destroying the water pipes for the water not to go to Kitui before we benefit, so there are those kind of struggles.

So, whichever the department is going to come up with this issue to solve this issue they have to go very deep, they should not just go shallow on this issue; they go back to the ministry of water they get the history from there then it was my advice if they could also engage the Kitui Governor because she is very social to see how good they can do it because they have said like Hon. Ndawa has said they say they cannot put another pipe there but Kitui came back again and

they had to put another one, there are two pipes coming from that area, one treated water another one is not treated and we are not benefitting.

Actually, when it comes to my area, there is a hill where I come from in Kangonde hill where Hon. Member from this Assembly Hon. Alice, her home is around that area that is where the biggest tank is supposed to be there to serve Matuu, Masinga Central, Kivaa Ekalakala and Ndalani.

So this issue of KITUWASCO Madam Speaker, Hon. House it is not just something just to rush into. It is something which needs a lot of thinking and planning and also fully involving the executive of Machakos and also the national government, Madam Speaker and I urge all the members, you will see they call us people from the *wau* because of lack of water.

So, this Hon. House should also be on our side at least we can get water this time round. Thank you, Madam Speaker.

Hon. Speaker: What does *wau* mean?

Hon. Mulatya: It means people from drylands.

Hon. Speaker: Dryland? Thank you, Hon Mulatya. Hon Jeremiah.

Hon. Munguti: Thank you, Madam Speaker. I want to congratulate the mover of the motion because this is timely and the motion has been long overdue. Madam Speaker, as we are all aware that water is life and every human needs water either for consumption or for domestic use. It would be prudent for this House that we support the motion so that our people can benefit. I have vested interest in Masinga specifically in Kivaa ward; I have been touring the area and those people from that area have been suffering a lot owing to the fact that sand harvesting has been a menace and all the rivers have had sand harvested and therefore these people can have nowhere to get water.

It is my plea that if we have to sit down and think about this water as Hon. Mulatya is saying, it is something which needs to be dealt with intensively so that people can get water. Madam Speaker, you are also aware that clean water is necessary for our people and also for our livestock. It is very important that we note our livestock in that area, I happen to be actually rearing cattle in that area where I have a ranch, and I have been facing a lot of challenges by ferrying water from a distance to go and water my livestock and if this water is provided, a place called Kamangulu Primary where there is one kiosk if I can remember, that pipes have been dry for the last two years and that is the only nearby kiosk where I can get water for my livestock.

Madam Speaker, it is my plea that this House considers this motion approves it so that the people can benefit. Also when we come to production of farm produce, it would be wise because this water is plenty that our people can tap that water do irrigation because we have vast land in Yatta and especially Kivaa ward where we have fertile lands which can be irrigated and people get a lot of yields from the farms.

This definitely will make our economy grow because in the first place, these water kiosks if possible, we can employ people from our County. It is so frustrating when you are walking along Machakos County area and you find someone with a dust coat written Kitui County selling water for a person from Machakos County; it is very frustrating, Madam Speaker and this also will actually enable our people grow economically because when we employ people, we will make their life style or living standards improve.

The Swahili people say *mgala muuwe lakini aki yake umpe*. It is the high time we wake up as Machakos residents---

Hon. Speaker: What does that mean?

Hon. Munguti: Madam Speaker, it means that it will be actually prudent to give people their justice, because you see how come you just share with someone what belongs to you but eventually it becomes hers/his, it will be so bad and therefore it is the high time this Hon. House together with the residents of Machakos move together reason together so that our people can get this water so that we can move to the right direction. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Jeremiah. I have your phone here and I am not your secretary to take your messages, so I am asking Serjeant at Arms to switch it off and put it back here. Hon. Musau.

Hon. Wambua: Thank you, Madam Speaker. First and foremost I would wish to congratulate the member from Kivaa ward for minding not only his people but the people of the entire Masinga Sub-County, Madam Speaker. Masinga Sub County happens to have the biggest mass of water; actually it has the largest water body I can talk of in Machakos County. It has so much water harbored in terms of dams and it is ironical that some arid area is still suffering from lack of the same utility having it in plenty, Madam Speaker.

Madam Speaker, if we address the issues rising to this; number one is the management. It is unfortunate that we have the Yatta and Masinga Water Company so elaborate area, so large area served by just water company, while like areas like Machakos Central, Mwala, my sub-county have their water management bodies and I do believe Masinga is almost time one and half of Mwala on its own.

So, it is the time the Masinga sub-county had its own water management body. It is very unfortunate that those happy people have the water yet the water they are suffering from lack of it. Again I do believe during the agreement between the Kitui and the Machakos people by then we were outwitted. Actually, the water being supplied for exchange of money in Masinga sub-county by the Kitui company should be in form of a Community Social Responsibility and be given free.

Reasonably, this water is from the people of Masinga, and some people a bit far from it are benefiting from it so I think it was very wise for the people of Kitui by that time to consider giving the water as a sort of kick-back to the people of Masinga because it is a resource belonging to them and if at all we managed to change the Constitution of Kenya in 2010, I think that agreement can also be changed to fully benefit the people of Masinga sub-county.

Madam Speaker, the much-talked about tamacking in Kivandini to Masinga the larger part of it is in Kitui County and they do benefit from our investment free of charge yet they do not want us to benefit from the investment free of charge and always water issues raises a lot of fire. We are struggling to share the Kajiado water yet the Kitui people are getting it from us free and selling some of it to us.

I think we should go back to the drawing table we know the Governor Kitui is a very loving mother, she is very considerate and if well approached, we can reconsider these issues and have water connected from that main pipe. It is not establishment of other pipes needed along

that area; it is sharing because it is a voluminous pipe and I think most of the residents of that area traversed by that pipeline will help them get water.

If you allow me, Madam Speaker, I will also want to introduce this issue of the free borehole water in Masinga which happens to be the case also in our areas. These systems were very well functioning before but as of to date, they are becoming problematic in terms of repair; there is tear and wear and I do believe it is the time they are subjected back to the water companies for management such that a little item that costs very little money does not stop the residents of Masinga the residents of my area from getting that water, Madam Speaker.

Hon. Speaker: Hon. Musau, don't you think that matter would be more effectively discussed in a motion that is touching on the boreholes so that all the information is brought because yes it is good to raise it here but then you find that the House will be in a difficult position to resolve on that particular issue which is very important. So, what I am asking you is to leave that aspect and then think of bringing a motion now on how to make it better for the public to benefit from the water boreholes.

Hon. Wambua: Well-advised, Madam Speaker.

Hon. Speaker: It is a big discussion which the House can take a decision and liaise with the executive.

Hon. Musau: Well-advised, Madam Speaker, but---

Hon. Speaker: Go ahead on the motion on the Table.

Hon. Wambua: On the same regard, I believe there is a water act in this House that was passed in 2014, actually requiring for the re-absorption of the water companies into the County government, Madam Speaker. I believe it is the time this one is effected fully Madam such that we can have our water resources well-managed and as my Deputy Speaker has said we do not have County funds being pumped into almost independent companies. Thank you, Madam Speaker, thank you members for your advice.

Hon. Speaker: Thank you, Hon. Musau. Hon. Alice.

Hon. (Ms.) Nzioka: Ahsante Bi. Spika. Kongole Mheshimiwa Kitengu. Bi. Spika, mambo ya maji Masinga imekuwa ni donda ndugu. Bunge lililopita sisi kama Bunge tulitembea Masinga ili kuongea juu ya maji na kuona kwamba watu wa Masinga wamepata maji. Tulikuwa viongozi wa Kaunti ya Machakos, aliyekuwa Seneta wa Machakos na wengine ni kwa ajili ya kutatua shida ya maji. Bi. Spika, kuna shida kubwa sana juu ya maji; kampuni ya Tanathi ndiyo ilileta hiyo bodi ya maji ambayo ndio imechukua maji Masinga na pia kutuuzia.

Bi. Spika, nataka ujue kwamba sisi watu wa Masinga tuna shida kubwa sababu sisi hukosa maji lakini watu wa Kitui hupata maji; unakuta wakati wa usiku wanachukua maji na wanaweka kwa tangi kubwa sehemu ya kwao na ikifika asubuhi wanafunga maji. Unakuta nyumba ndogo ambazo zimewekwa njiani ili kusambaza maji au kuuza maji tunaweza kaa karibu wiki nzima hatuna maji.

Sisi kwa maono yetu ni kusema kwamba sababu maji ni raslimali na iko katika Kaunti yetu, sisi Kaunti tumekuwa watu wa neema kubwa Kaunti ya Machakos tumekuwa watu wa neema kubwa hatujakataza watu wa Kitui maji, lakini Bi. Spika tunaumia. Sisi kama Kaunti tunapatiana maji, inatoka kwetu na tumewapatia maji mengi ambayo wanatumia hasa hata wengine kwa kulima na sisi hatuna maji.

Mimi ningeonelea maono yangu kwamba tumewapa maji lakini wasitunyanyase maana sasa kampuni wametengeneza wao wenyewe, wamechukua maji yetu, wanatuuzia hiyo faida ambayo wanapata inatumika katika Kaunti nyingine. Bi, Spika, kama vile unavyojua sisi kama taifa hatuna ukabila na hatutaki ukabila lakini twasema kama ni haki yetu ya maji Masinga tupewe, Machakos tupewe na hatutakuwa na mambo.

Bi. Spika, kumbuka kulikuwa kumetengwa sehemu, Mheshimiwa Mulatya amesema kuna mlima wa Kangonde, kulikuwa kumetengewa kuwekwa tangi kubwa ambayo watu wa Kivaa wangepata maji, Kithyoko wangepata maji, Ekalakala, Matuu na sehemu zingine. Maji ya mteremko haingetumia hata stima lakini hiyo yote haikutendeka, waliweka maji sehemu zingine ambazo huwezi patia hizo sehemu maji.

Kwa hivo maana tuna bodi ya maji Yatta na Masinga, Kaunti itengeze kampuni ambayo inaweza patia watu wa Masinga maji ya kutosha na ndio watu wa Kitui pia wapate maji. Bi. Spika, kama kaunti, kila kaunti ina raslimali na sisi tuna maji, tutosheleze maji kwanza Machakos alafu tuone kaunti nyingine imepata. Bi. Spika jua kaunti yetu ni kaunti ambayo ina ukavu mwingi na kama sehemu ya Masinga, Kithyoko na sehemu nyingine za Machakos, huwa unaona wakati wa siku za soko unapata kuna malori kubwa zinakuja zimebeba mboga kama kabeji, kumbuka ujue kwamba mahali hizo kabeji zimetoka hao watu wameshiba na ndio maana zinatufikia. Sisi tupate maji mwanzo halafu wa Kitui pia wapate.

(Applause)

Kumbuka hiyo maji Bi. Spika ukitembea ningeomba siku moja ukipata nafasi tembea uone ile pipe imechukua maji ama huo mfereji mkubwa umebeba maji; hayo maji yamepelekwa yote na hakuna hata sehemu wametupatia maji. Kulikua mfurugano kusema kwamba hiyo mfereji itatobolewa ama nini lakini sababu kuna msemu wa kiswahili usema, mwenye nguvu mpishe. Watu wa Masinga na Machakos hatukua na nguvu kusimamisha maji yawekwe kwetu lakini umefikia wakati sisi kama kaunti sasa, tumeamka kusema kwamba, maji tunywe kwanza tupate maji halafu kaunti zingine zitapata.

Kwa hivyo Mheshimiwa Kiteng'u asante kwa huo mswaada na najua sisi kama kaunti na kama Bunge tukishikana na tuwalete viongozi wa serikali kuu, tulete viongozi haswa kama Bi. Spika nakushukuru kwa mumekuja pamoja na Spika wa kaunti ya Makueni, Spika wa kaunti ya Kitui na Magavana pia wakishikana na nyinyi pamoja na sis najua kuna jambo litatendeka.

(Applause)

Kwa hivyo najua hivi karibuni tutakua na kampuni kutoka sehemu yetu ya Machakos na tutapata maji ipasavyo. Asante, Bi. Spika.

Hon. Speaker: Asante Bi. Alice, Mheshimiwa

(Laughter)

Hon. Speaker: Hon. Maitha.

Hon. Maitha: Thank you, Madam Speaker. I want to congratulate the Hon. Member for having brought such a good motion in this House. Madam Speaker, I also want to thank the late Hon. Kiluta for the work he did to try and stop the water going to Kitui before his people of Masinga had adequate water.

Madam Speaker, it is only because the power that time was against Hon. Kiluta, that is the only reason that water was allowed to go to that area, that is in Kitui and when we start talking about this KITWASCO, Madam Speaker, it is very sad that a Company from another County is running the water in our County, Madam Speaker. It is time we brought a legislation in this House that we start charging the Counties which are getting water from our County, Madam Speaker.

If oil from Turkana, those people from Turkana could not allow oil to be taken to Mombasa before a certain percentage was allocated to that County, I do not see why the Machakos County cannot also do the same we pass a legislation such that a certain percentage of this water is given to the Machakos County Government before this water is given elsewhere and also Madam Speaker, there is this gas from Turkana also, they have said it will not go to Mombasa unless they get a certain percentage.

It is also the high time the people of Machakos also made a legislation to also demand the electricity which is generated in Machakos, we benefit the people of Machakos, benefit before other Counties get our electricity. Madam Speaker, nowadays it is every County and her natural resources, we are endowed with water and this electricity Madam Speaker. Let us bring a Motion here which will enable our County to get money from those resources. I support, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Maitha. Hon. Kisini.

Hon. Kisini: Thank you Madam Speaker, for also giving me time to share on this Motion. I want to thank Hon. Kiteng'u for bringing such a Motion. I want to say that, it is very true as the other Members have indicated that people of Masinga have really suffered while people of Kitui have benefited. I think the mover was moved by seeing to it that, 14 years down the line nothing has happened in Masinga while our brothers and sisters in Kitui and we are not complaining are enjoying their sweat.

If you go to Masinga, you will find our women and men there using donkeys to fetch water, having big jerricans to fetch water and if you compare and contrast you will find that Kitui are using taps to get water. So, the people of Masinga also want to benefit from what is this goldmine and that is why you have seen Murang'a people are complaining about the water they are selling to Nairobi people.

So, it is the high time our County Government goes quickly, forms that Company and then starts to supply water for Masinga people. They have the God-given dam that is Masinga and it will be very bad to see to it that, that natural resource which is God given is benefiting other people, while it is not benefiting their people.

So, Madam Speaker, I am requesting, I am saying that, let us compel the County Government of Machakos to form that Company as quickly as possible to engage the Kitui County, to engage the Ministry of Water and see to it that, Masinga people also get their share from Masinga Dam so that we can alleviate the poverty there. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kisini. Hon. Members, I call upon Hon. Steve Mwanthi. He just looks at me and he is smiling. You do not have to smile at me to be able to speak.

(Laughter)

He is going to be a beneficiary? That is why he is happy. Hon. Steve Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. Madam Speaker, I do support the Motion that, we get a local Company running that KITWASCO water as they call it now. You see it has been a big problem for us like for example in my Ward there is a contractor who was contracted to supply water there. He finished his work but for the last four months we have been having problems of who is going to launch that water. Is it the County Government of Machakos or is it the KITWASCO Company or is it the National Government?

It has been an issue and noting that we had the long dry season, my people could not access that water and it is already in the tanks there at Ekalakala Market. It has been a big issue in fact even for me because the residents there are worried, how comes Mheshimiwa water is here and we cannot access it? The Masinga Dam, for your information, lies 80 percent in my Ward and yet my people even cannot access that water.

It is bad, it is paining us and I think it is those Officials from Kitui who have been derailing the opening of that reticulated water. So, I do support....it has been an issue of in the whole Country where we were having an issue with the Murang'a County and Nairobi County but it was resolved that, Murang'a people must first drink Ndakaini water before going to Nairobi. The same has been happening between County Government of Makueni, Machakos and Kajiado where still Kajiado people are also asking for their portion of water which is coming from their County.

So, it should also replicate in our County here in Machakos so that our people may benefit from that essential commodity Madam Speaker. So, I do support the Motion Madam Speaker. Thank you.

Hon. Speaker: Thank you, Hon. Steve Mwanthi. The Mover of the Motion, please reply.

Hon. Kiteng'u: Thank you, Hon. Speaker. Thank you, Hon. Members for your positive support and comments. Hon. Speaker, a lot has been commented or rather has been said in support of the Motion but I would like to clarify and comment on a few points, Madam Speaker. Madam Speaker, since 2006 when this project was initiated, Kitui County has been benefiting from this project until we had to plead where we had to get some....I think we call them Ts and Hon. Speaker, when you fail to pay or the bill is beyond due or you cannot be able to pay, when this KITWASCO disconnect the water, we are charged a very huge penalty and you have to go all the way to Kitui and make the payments.

Hon. Speaker, as I was moving the Motion, my intention was that the water be given to a Company in Machakos or rather the Company which will be formed even if it is MAWASCO so

that the people of Machakos can be able to benefit and can be able to make the payment locally here in Machakos. Hon. Speaker, as Hon. Mulatya said that we have two pipes and of a diameter of around 600 and one is treated water and the other is irrigation water. Hon. Speaker, the irrigation water I think the people who may benefit from the irrigation water is people from Ekalakala but the other people have never benefited.

So, Hon. Speaker, I request this Hon. House and this County Government of Machakos do dialogue with the County Government of Kitui since the project has already gone so that the people of Machakos can start benefiting as soon as possible. Hon. Speaker, in my Ward also as Hon. Moffat Maitha had said, that the biggest company which generates power also comes from my Ward and from Kindaruma Dam and it is rather in my Ward at Kamburu.

Hon. Speaker, it is a request also because this water comes from Masinga Dam and this water is also the same water which is being used also to generate some power. Madam Speaker, a measure be done and we negotiate and see whether a certain percentage can be given to the County because like for example in Kindaruma, we have City Cotton and the electricity comes up from Kindaruma in the next village but Hon. Speaker, there is no power in City Cotton as well and the same matter applies to the KITWASCO whereby they are getting the water from Masinga but leave the locals without benefiting from the water.

So, Hon. Members, I request you support and pass the Motion and the County Government takes action immediately. Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Kiteng'u. Hon. Members, I now put the question.

(Question put and agreed to)

Hon. Members, the resolution you have just passed is hereby committed to the Committees on Devolution and Inter-Governmental Relations and Environment, Energy, Lands and Natural Resources Committee. That joint Committee is required to file a report in this Assembly on or before the 27th day of February, 2019.

Remember Hon. Members, there is a long recess in between from today to that day, that is why the date was far much as the House appreciates the urgency because we want the people in that region of Masinga, all the Wards and even Machakos and other areas to get water.

So, the joint Committees need to appreciate that it is an urgent matter, the Chairpersons of those Committees are who and who? Hon. Kisini, I know is for Environment, Water related matters. Who is the Chair of Devolution Committee?

Hon. Members: Hon. Jeremiah.

Hon. Speaker: Hon. Jeremiah, who is not in the House. Let it be notified to him. He is not in the House at the moment; he was here few minutes ago. So, those two Committees need to expedite this process. Hon. Members perhaps the Chair can also make some comments because the Motions are usually passed by the House and in that regard the Speaker is not part of the House for voting purposes but of course for guidance purposes the Speaker is central.

Hon. Members, I just want to draw the House's attention to the provisions of Article 62(1)(i); you will notice that Hon. Members under that part of the supreme law of this land, all

rivers, lakes and other water bodies as defined by an Act of Parliament are public land. That is where we are starting.

So, all rivers, lakes and all water bodies are public land or public property. If you go to sub Article 2 of the same Article, the Constitution says that, public land.....remember rivers, lakes, water bodies are land because they sit on land but they are land under the Constitution. So, public land and here read, water mass and that is Masinga watermass, shall vest in and be held by a County Government in trust for the people resident in the County.

You just need to go up to there. Masinga Water Mass is held by the County Government of Machakos in trust for the people of Machakos County. If you go to the Mining Act because the Mining is about exploitation of natural resources and water is a natural resource, that resource must first benefit the people in that area where the resource is located.

(Applause)

If you go to the Water Act, you will find that where the water is harvested, the people in that area should first benefit. However, in everything remember you will benefit and then the people next because they are Kenyans, will also benefit. So, the Constitution and the laws are taking about fairness and that is why when those Committees come to interrogate the matter that has just been passed, have in mind the Constitutional provisions I have just noted for you and more others because you will also work with the legal department of the Assembly to guide you on the laws and also you will look at the Mining Act and then of course you will look at the water projects.

I liked the caution Hon. Mulatya passed to the Committee and as it is the House, that the matter has got a long history so do not be in a hurry and make sure that you dig out the past properly so that the report can be comprehensive. Remember you are also going to talk about Inter-Governmental Relations and that is why I referred it to devolution Committee and Inter-Governmental Relations and not only at County level because of Kitui County but also at the National level.

So, Hon. Members, it is the expectation of the House that the joint Committees will do a good job and urgently so within the time given so that, that matter can be resolved once and for all.

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point the sitting of the House will be adjourned to resume on the 20th day of November 2018, at 2.30 p.m. That is today in the afternoon Hon. Members.

House rose at 12.21 p.m.