

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**  
**OFFICIAL REPORT**

**Tuesday, 27<sup>th</sup> February, 2018**

The House met at 10.02 a.m.

*[The Deputy Speaker (Hon. Museku) in the Chair]*

PRAYERS

**Hon. Speaker:** Serjeant at Arms, can you ring the bell, please.

*(Quorum bell was rung)*

We have quorum now. Mr. Clerk, proceed.

**PAPER LAID**  
ANNUAL CLEANING WEEK

**Hon. Speaker:** Hon. Members, good morning. In today's Order Paper, we have one Paper to be laid before the House by Hon. Robert Kisini.

**Hon. Kisini:** Mr. Speaker, I beg to lay the following Paper on the Table of the House today Tuesday, 27th February, 2018; the report of Committee on Environment, Energy, Lands and Natural Resources on setting up of annual cleaning week by the County Government of Machakos. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Kisini, that Paper is now laid.

**NOTICES OF MOTIONS**  
ANNUAL CLEANING WEEK

**Hon. Speaker:** Hon. Members, under that order we have two notices of motions, the first one is by the Hon. Robert Kisini and the second one is by the Hon. Judas Ndawa. Hon. Kisini, please.

**Hon. Kisini:** Mr. Speaker, I want to bring to the House a notice of motion and I want to put it that;

Mr. Speaker, that aware that the mission for the Department of Environment, Sanitation and Solid Waste Management of County Government of Machakos is to provide a clean and safe environment to the people of Machakos County;

Aware that waste management is proving to be a hard nut to crack for most County Governments;

Informed that according to the Fourth Schedule of the Constitution of Kenya 2010, safe disposal of solid and sewer waste management rests entirely with the County Governments;

Aware that solid waste matters have been aggravated by the ever growing population in urban and peri-urban areas, which continue to generate huge amounts of waste;

Aware that the crisis is slowly getting out of hand and the County risks falling short of the environmental sustainability and sanitation target under the Sustainable Development Goals;

Acknowledging that solid waste is an emerging health threat emanating from dumping of solid waste in undesignated areas like road sides, water catchment areas and residential areas;

Aware that haphazard disposal of waste in towns reduces value of land, scares investors, detracts aesthetic value of our towns and pollutes our water resources. Mr. Speaker, I wish to give Notice of Motion that this Hon. House discusses and approves the report of the committee on Environment on setting up of annual cleaning week during the long rains by the County Government of Machakos.

Thank you Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Kisini for that notice of motion. Hon. Ndawa.

#### ERECTING SPEED BUMPS ON THIKA-GARISSA HIGHWAY AT MATUU

**Hon. Ndawa:** Thank you Mr. Speaker;

That aware that the universal declaration of human rights considers the right to life as the pivotal point in the concept of the protection of human rights which are born free and equal in dignity and rights;

Cognizant that Article 26(1) of the Constitution states that 'every person has a right to life' and further that Article 26(3) states that 'a person shall not be deprived of life intentionally except to the extent authorized by this Constitution or other written law;'

Further, aware that Article 186(1) of the Constitution of Kenya provides that the National and County Government shall liaise for the purpose of exchanging information, coordinating polices and administration and enhancing capacity;

Acknowledging that one of the key roads in Yatta Sub-County is the Thika-Garissa Highway which is under the Kenya National Highway Authority (KeNHA);

Noting that 17 people have lost their lives along that road in the month of January, 2018 due to accidents happening at three black-spot areas at Kwa Makaa, Mukalala and Matuu Level IV Hospital junction due to speeding and careless driving;

Aware that the County Government has a duty to protect lives of residents of Matuu Ward;

Mr. Speaker, Sir, I wish to give notice of the motion that the County Government of Machakos liaises with National Government to find ways of saving and protecting lives of residents using Thika-Garissa Highway by erecting speed bumps to control speeding of vehicles in the black spot areas.

Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Ndawa for that notice of motion.

### STATEMENT

BUSINESS FOR THE HOUSE FROM 27<sup>TH</sup> TO 28<sup>TH</sup> FEBRUARY, 2018

**Hon. Speaker:** Hon. Members, under that order we have a statement to be laid by the Hon. Justus Kiteng'u on behalf of the Hon. Francis Ngunga. Hon. Justus Kiteng'u.

**Hon. Kiteng'u:** Thank you, Mr. Speaker. Mr. Speaker, I stand under Standing Order 41(2)(a) where during the Statement Hour a member of the House Business Committee designated by the Committee for that purpose, shall for not more than ten minutes, present and lay on the table, a statement informing the House of the business coming before the House in the following week.

Tuesday, 27th February, 2018

Morning at 10.00 a.m.

Report of PAIC Committee on Audit Report of Financial Statement for Mwala Water and Sanitation Company for the period ended 30 June, 2015.

Afternoon at 2.30 p.m.

Motion for the County Government of Machakos and National Government to liaise to construct speed bumps along Thika-Garissa Highway to protect lives of residents in the area. Hon. Judas Ndawa, MCA Matuu Ward.

Wednesday, 28th February, 2018

Morning at 10.00 a.m.

Report of Environment, Energy, Lands and Natural Resources on Policy on Environmental Cleaning.

Afternoon at 2.30 p.m.

Motion on regulation of Miraa business by Hon. Josphat Kasyoki, MCA Kyeleni.

Thank you, Mr. Speaker.

### MOTION

**Hon. Speaker:** Hon. Members, under that order number, we have a motion to be debated on. If you remember, last week on Wednesday, we had this report read before the House and the motion was moved to propose that the debate be adjourned to allow members to have time to go through the report and internalize it so that they can be able to participate in the debate from a more informed position and I do believe that members you got the report in the pigeonholes and I believe that you went through them.

So, I would be requesting before we continue the debate, the Hon. Johanna to just give us a refresher of what the motion was all about, then from there because the question will be proposed will go ahead and open the floor for debate. Hon. Johanna.

FINANCIAL STATEMENTS OF MWALA WATER AND SEWERAGE COMPANY FOR THE YEAR  
ENDED 30TH JUNE, 2015

(Hon. Wambua on 20.02.2018)

(Resumption of Debate on the Motion tabled on 20.02.2018)

**Hon. Munyao:** Thank you, Mr. Speaker, good morning Hon. Members. This report was read by the chairperson public accounts and investment committee last week because of some problems of missing pages, Madam Speaker directed the report be put in our pigeonholes for further reading.

Today I stand on behalf of the chairperson to give the House a brief of the report and I will request Hon. Members to open page 16, where we have a summary of key observations. Mr. Speaker, the following is a summary of key observations made by the committee;

1. Late submission or absence of adequate records and supportive documents at the time of audit was observed as stated in queries 1, 2, 4, 5 and 6 regarding cash and bank balances, Trade and other receivables, Administrative costs, unsupported expenditures and Trade receivables respectively.
2. The current liabilities as at 30th June, 2015 exceeded the current assets by Ksh. 3,909,674. This casts a doubt on the ability of the company to sustain itself.
3. There was significantly high loss of Unaccounted for Water valued Ksh. 22,489,097 which is 35 per cent above the 25 per cent standard provided by Water Services Regulatory Board.
4. Inability of the Company to employ qualified staff with knowledge on principles of accounting. This was said to be due to financial incapacity.
5. The Company did not have a complete Board of Directors in office hence difficulty to make decisions that are legally binding.

Mr. Speaker, the following page shows a summary of the key observations made by the committee;

1. On late submission of reports to the Auditor General, the Company should submit future reports on time as provided in Section 47(1) of the Public Audit Act, 2015 'that the financial statements required under the Constitution, the Public Finance Management Act, 2012 (No. 18 of 2012) and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.'
2. On the matter of lack of supportive documents the Company should in future observe provisions of Regulations 104 of the Public Finance Management (County Governments) Regulations, 2015 that states that 'all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.'  
In case of breach provisions of Section 63 of Public Audit Act, 2015 should be invoked that states that 'except as otherwise provided for under this Act, a person who is found guilty of an offence under this Act for which no other punishment is given, is liable on conviction to a fine not exceeding two million shillings or to a term of imprisonment not exceeding one year or, to both.'

3. The County Government of Machakos should write off some of the old debts pursuant to Section 150 (2) of the Public Finance Management Act, 2012 that states that 'an Accounting Officer for a County Government entity, may with the approval of the County Executive Committee member for finance, write off a loss exceeding the amount referred to in subsection (1) but not exceeding a further amount, and in circumstances prescribed by the regulations approved by Parliament.' This is because based on the current situation it seems impossible for the company to recover the huge debts.
4. The future of this company is constrained by huge debts casting a doubt on the sustainability of the Company. The County Government of Machakos should set up a policy to take up the management of the Company and rescue it.
5. The Company should, in three months, plan for appointment of new directors as provided in Section 132 (1) of the Companies Act No. 17 of 2015 that states that 'a public company shall ensure that at appointment of Director during public general meeting of the company, a Motion for the company. Appointment of two or more persons as directors of the company by a single resolution is moved only if a resolution that it should be so moved has first been agreed to by the meeting without any vote being cast against it.'

Mr. Speaker, in conclusion, in order for the County Government of Machakos to realize one of its goals of providing employment and promoting the spirit of devolution there is need for the Government to intervene to rescue some of its entities that are collapsing due to managerial or financial constraints.

It is therefore my privilege and pleasure on behalf of the chair and committee on Public Accounts and Investments Committee to table before this Hon. House the report on Financial Statements of Mwala Water and Sewerage Company for the year ended June, 2015 for discussion and adoption.

Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Johanna for refreshing us on that Motion.

*(Question proposed)*

Any Member who would want to contribute to this Motion? Hon. Musyoka.

**Hon. Mutinda:** Thank you, Mr. Speaker. I would wish to thank the Committee for the report; it is a job well done but equally, I wish to say that this report does not reflect exactly on what is happening on the ground and under this water companies. This water Company of Mwala Water and Sanitation is the one which covers my area which has been previously covering Wamuya Water Company and I think Mr. Speaker, this Company, Mwala Water has drained that water project.

In fact, it was handed over back to the community and they have no money to even buy a pipe. So, I think this report is good but the Company is now pulling the infrastructure down which it heads like Mbiuni, Mwala, Wamunyu and Kibauni and I think Mr. Speaker, this House should take this report and see to it salvages the projects which are being headed by this Water Companies.

Mr. Speaker, when you see something like non supportive documents; when you talk of things like electricity, I would wish to say, electricity for all water pumped into this County is

paid by the County Government and when you go to the County Government in the Department of Finance, you will find that they have been paying this electricity but here in the report, we are being shown as if the water Company had paid and had not keep the receipts which is just a mere lie.

They are just taking that money and indicating as if they have been paying the electricity to the Kenya Power but this has been paid by the County Government. My case is Wamuya where my water was paid by the County Government but those are now the reports which they put as if they had paid and they had misplaced the receipts. How do you misplace a receipt of Ksh. 500,000? It is not a receipt of Ksh. 10.

So, there is a lot that they are hiding and I wish to say, let this people take public funds and public projects seriously. There is need for that and they should know that they are working on behalf of the citizens and that this is not the time to joke with this because when we talk of water resource, it is not something where people say they have failed and our people continue to suffer without water and people are enjoying the monies.

When you see all those calls, when you read of liabilities exceeding assets; it merely means that these people are just squandering our money and they have no directors. Then why are they there? Are they just there for their own sake? Those are the things we should address and those are the things we should ask ourselves and I think there is need for this House to take this thing and other Companies which have same problems.

I think the audit report might not have exhausted what should have been exhausted and there is need for further investigations of this matter of water companies because the County Government has done what it can but the people who have been given to manage are just doing whatever they wish. Millions are read out here but cannot be reflected.

My case like in Wamunyu, is where you find all debts reading so and owes Ksh. 10 million, a bill of Ksh. 5 million, Ksh. 5,000, Ksh 10,000 and it is just records that are there to show us that they are doing something. So, when you talk of Ksh. 22 million of an accounted water, it is just people where a name is put and a bill is put but in reality, that person has not been drawing water.

So, Mr. Speaker, I think it is the high time other Companies are investigated, this one needs to be investigated and we see what has the Committee said on the current situation? Not talking of the future while we are seeing Ksh. 22 million going down the drain. We do not see what they are saying about the Ksh. 22 million because we cannot live Ksh. 22 million to just go like that and the Companies there have no funds, they have no money and the same Companies, our people are paying money for Water bills for whoever drinks and the County Government is again paying for their bills.

Then, when they sell this water, where does that money go, Mr. Speaker? So, this House should investigate more on this Water Companies; it is just a milking cow. Our people are suffering but we are just being milked because the County Government funds are doing much to pay these electricity bills to support our people in getting water but our people are also being extorted to pay bills that do not exist, bills that have not been connected with water.

So, let us investigate more and see what we can do about this water Companies. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Musyoka. Hon. Muendo Mark.

**Hon. Muendo:** Thank you, Mr. Speaker. Let me first thank the Committee of PAIC for

the good job they have done. Mr. Speaker, I think these diseases of these water Companies across the County whereby they misuse the funds.

Mr. Speaker, if you remember well, there is a Motion of harmonizing water and I think all these problems which are facing the people of Machakos County on water, is only that we do not have Water Board which is supposed to be in place and which was supposed to be in place even in the last five years because the water Act is very clear; there must be a Water Board because water is devolved, there must be a water Board which is going to regulate all the water providers in the County. That is the only key word; that is what we are lacking.

This House should move immediately and ask the Executive to form the Water Board to regulate this water because even in my place I have the same problem, Kangundo the same problem. So, this is the high time this House makes a decision and do a follow up, put that Water Board in place, harmonize the water supply in Machakos County so that if there is a problem like that one for Mwala, we should be now questioning the CEO.

*(Applause)*

Therefore, I think in my Implementation Committee, we are following up on that Water Act. They did it here last time, they made the Water Act but it was not gazetted so it has been of no use but with this House, now the current House, I think we are going to have that Act gazetted and Water Board formed. The Water Board actually has got a CEO, there are directors from water providers and I think when you see the Act because it is actually there, you can see what is lacking in Machakos County is just the Water Board and then to harmonize the water provision. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Hon. Mark. Hon. Dominic.

**Hon. Ndambuki:** Thank you, Mr. Speaker, for the opportunity to contribute. Mr. Speaker, I would wish to thank the Committee that did this commendable job of unearthing the challenges that bedeviled Mwala Water and Sewerage Company and Mr. Speaker, looking at the report, it is appalling to see that the huge volumes of water and when we translate that into money for the an accounted for water, Mr. Speaker, the House will agree with me that it leaves more than it meets the eye concerning the un-audited for water and this is anything to go by, it reflects perhaps the situation that is affecting the other Government entities within the County.

Mr. Speaker, it is my prayer that this House would also look at other water service providers that are owned by the County Government or by the National Government and are within Machakos County with a view to seeing if they are providing services to the mwananchi and if the Management is being done prudently.

Mr. Speaker, looking at the report, a summary of it would show that, there is mismanagement of Mwala Water Services Board and as I have said before, this could be a reflection of what is happening with other Government entities. Mr. Speaker, we were elected by people of Machakos County to represent them and if they are suffering while we are watching, it will be something that is not good.

Therefore, I am asking this House to also extend their mandate to other entities that provide water and other services that are basic to the wananchi of Machakos County. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Dominic. Can I have Hon. Kieti?

**Hon. Kieti:** Thank you, Mr. Speaker. I want to start by congratulating the committee on PAIC that has done these investigations and as Hon. Mutinda has said, it is not a true reflection of what we saw on the ground and more needs to be investigated. Otherwise, when you look at on page 8, when they talk about Unaccounted for Water and when we are talking about Unaccounted for Water in Machakos County, it is as if we are abusing the people who elected us because when a single company is losing 60 percent of the collected water from the river and this water cannot be accounted for, Mr. Speaker, there is a lot that needs to be investigated so that any drop of water in Machakos County should be accounted for because our people are suffering when we walk you will see that across the County.

At the same time on page 9, when they talk about Ksh. 10,262,000 that has no supporting documents; this is a lot of money and this is as it reads the statement of comprehensive income for the year reflects that under administrative costs and out of which 94 percent are not supported with information and documentary evidence. What does that mean? It means there is a lot that is getting lost at the hands of a few people within this Water Company and it is the high time that we rose to their occasion and these people accounted for any lose that might have occurred in the time they have been in office.

At the same time, when you look at the table that the committee has given us on page 11, they are talking about Financial Statements, supporting schedule and variations and when you look at the variants on very simple areas like operations costs and maintenance of plant and equipment, this is an area where we cannot miss supporting documents. So, it means, the work here is like is been done by casuals.

If it is the same repair that has been done, the person who has done that repair should sign a voucher, a simple document. So, it means, these people are doing very less and that is why I am supporting this report and the recommendation that they have given on the second last page on page 18 where there is the Committee has recommended that, the Company should in three months, plan for appointment of new directors as provided for in Section 132(1), of the Companies Act No. 17 of 2015. Thank you, Mr. Speaker and I support the report.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Kieti. Hon. Kalumu.

**Hon. Kalumu:** Thank you, Mr. Speaker. I would like to start by thanking the Committee for the work it has done although I am not one of the closest neighbours of this area where the Company operates or the Company is situated but looking at the report, there are several things which are lacking from the report like the balance sheet. There is no way you can port the position of a certain business without showing a balance sheet.

That one first of all is lacking and what has been provided for is just a schedule whereby we are being given some numbers without quantification. If you look at the variances, you will find that, this work in progress I do not know whether it is true the Committee visited and saw



that there was true work in progress. If you work in progress and operation, I do not see the difference between work in progress and work in operation because they are one and the same thing.

Looking at what has been provided, it has shown something like 'negative retained earnings;' I have never heard of such a word in accounts because you retain what you have received. In accounting negative retain earnings is a loss. Unsupported bills like this one for electricity which the report squarely says that it was confirmed and it was paid by the County; I think the Board Members and those people in operation there should be surcharged because that one has a confirmation that it was paid by the County Government because if we dwell on reports which are presenting lies and we support it and we say okay, because these people have never been able to make profit, let us support them to stand, yet what they are presenting on the floor of this House and to the Auditor General, is just a mere lie.

Why should we pay or support a Company to stand again as a County Government whereby if the Company is managed well, it can stand by its own. I think this House should look at that and have a clear indication that companies which are able to stand on their own should be left to do so by following the law.

Late submission of documents; why do you present a public document late while you know very well that, relevant authorities of this Government would want to see your performance because it is of concern of the residents of Machakos to see how this Company is performing?

Unaccounted for water is very high. In fact, it is almost 35 per cent so if you round off, you will find the 50 per cent is almost closer. This company is doing monkey business; if you can lose 35 per cent and you are saying you are in business, you are presenting nothing to us.

Election, something small like just calling an election of directors is difficult. Why? Can we be given reasons as to why these elections were not held? In Kenya, there is history of mistrust; people who are given opportunities to serve these companies are not trusting themselves.

They are not honest with the jobs that are being presented to them. They are not showing integrity in their offices and that is why we can see this kind of a report. For me, this is not a report; because some of the things are missing. You can't say you are presenting a financial position of a certain entity by a schedule. So, Mr. Speaker, I am very much perturbed and dismayed by the kind of operation of that company. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Kisini, then I come to this side.

**Hon. Kisini:** Thank you Mr.. Speaker. I also want to add a voice and first, I applaud the committee which has brought this report and before I put my thoughts, I want to say that as a House, I think this report is too late and I don't mean on the committee, I mean on those auditors who were auditing. We are talking of financial year 2014/2015, we are talking of accounts of June, 2015 and today we are counting two to three years back whereby we might not be able to remember very well what happened; so that is a concern.

I also want to request the House to look keenly on water management because in Athi River, we do not have water and there are some concerns although we are pulling up our socks to see to it that this service of getting water which is very essential, we live up to it. Going to page seven, there are some concerns which seem to be genuine and others are not. Like, when you go to page seven, the committee observed that observed there was duplication of roles

between the County government and Mwala Water Company because, the County Government is offering free water by sinking boreholes in various wards.

So, somehow, this company was made unable to do its duty because of those boreholes. The report is saying that, when these boreholes were sunk, just near, those people with outstanding debts went to get water from the boreholes and could not pay. That is why I say, some of the losses might be genuine because if you get an alternative, you will go there and there is no way of pinning you down.

I also go to page 13, and tend to wonder if the liabilities are exceeding the assets by a tune of almost Ksh. 4 million. That is a very big difference and you tend to wonder, where the difference came from because, if you compare the assets and the liabilities, the liabilities are more by Ksh. 4 million. So, how does this company run?

They are talking of an indication of existence of materials and uncertainty; there is some uncertainty as they are saying, because if in a company, if the liabilities are more than the assets, Mr. Speaker you are an accountant, you can tell us, what does that mean; the company is insolvent or what?

On the recommendations that they are requesting; we write-off some of the debts through our finance committee. So, what else do we do if we cannot get these debtors to pay and make the company sustainable? It is also good we follow up that recommendation that we request the County Government to maybe assist in clearing off these debts so that that service can be delivered well at Mwala.

Lastly but not least, I want to talk of; in order for the County Government of Machakos to realize one of its goals by employing and the spirit of devolution, there is need the Government to intervene and rescue some of these entities, not even Mwala. So, my last comment is that; let us request the County Government to intervene as the report says and save this company from collapsing because if it does not do so, our people will suffer. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Ndawa.

**Hon. Ndawa:** Thank you Mr. Speaker. First, I would like to take this opportunity to thank the committee for doing a lot of work and coming up with the report we have before us. Mr. Speaker, to sit down and come up with a report means that some Members and officers of the Assembly have sacrificed their time, so we must appreciate them for that good work.

*(Applause)*

Mr. Speaker, the report is very clear and the few shortcomings or the few items which are not captured in the report, the cause is lack of information. There is no way the committee would have come with a very comprehensive report without information because they don't work in that company.

Mr. Speaker, this company deals with issues of water and in our constitution, Article 43(d) is very clear it talks of rights of wananchi to get water. The government of the day whether the National or county Government has a duty and an obligation to give wananchi clean and safe water and in adequate quantities. So, Mr. Speaker, looking at the report, if this is the true position, if this is left to continue, it means that Article 43 will not be realized and these people will not get water.

Mr. Speaker, cap 486 of the Companies Act is very clear, every public company is supposed to hold Annual General meeting at the end of the year; and it is in that AGM when the

books of accounts are looked at and before the AGM is conducted. Section 486 of the Companies Act requires the Board of directors to send notices of that AGM and they are supposed to attach the agenda that will be transacted on that day.

Again they are also supposed to attach, and it is a requirement, the statements of accounts and this notice should not be less than 21 days, it is a requirement; for members who are coming to that AGM to at least have a know-how of what is happening.

So, Mr. Speaker, this report has not told us whether the company has been holding AGMs. That has not been captured in the report.

The other issue, at the AGM, agenda number seven is always about election of directors. In the absence of AGM, we cannot expect to have election of directors because they are elected at the AGM. This is one of the causes why in the report there are no directors. But what I want to collect in that report is we cannot say there is no Board of directors; a company has got no mouth to speak for itself.

It speaks through the board of directors and the board exit office when a new Board comes to office. In case the company has failed to convene an AGM to elect directors, which means those who are in office will remain in office until such a time when AGM will be held and directors are elected.

Mr. Speaker, Sir, in the report we have not seen the articles of association and the memorandum of the company. So, it is very difficult for the committee that was coming up with this report to give us the true position because it doesn't have information; what does the article of association of that company say. According to me, this company is run as a private business which is against the constitution and against Section 486 of the Companies Act.

Mr. Speaker, there are so many loopholes in the way the company is run. We have what we call international accounting standards; that is the way accounts are supposed to be done- these people in office are lacking capacity, they are lacking the know-how of the set standards of accounting and that is why we have so many gaps in that company.

Mr. Speaker, this is the high time now; when we were out there campaigning, we used to say maybe the County Government is not working, but the time has come now because the report we are getting, it is somebody who is failing on his duty. Somebody has been given the mandate by the County government to work as a director or as an employee of a certain company and he is not doing what he is supposed to be doing and that is why we always say we have a problem. Time has come for this House to correct the anomalies which are there and set precedence.

This is Mwala Water Company; we have other companies and the same problem. The problems we have in Mwala are the same problems we have in Yatta Water Company, same in Kibauni and the other areas. According to the few reports we have received in this House, it means that things are not done the way they are supposed to be done and I believe according to the Companies Act, the registrar of companies is supposed to check how the companies are working and in case he finds that the Companies are operating at a loss, he has a right to close the company. I wonder why this company has been left to run when it is making loss after loss. In fact, the company ought to have been put under receivership because it cannot meet its financial obligations. If you look at the books of accounts, the discrepancies between the actual money which can be seen and what is not accounted for; that translates that the company is of no value to the members that it is supposed to serve.

To finish, I want to propose that within the next few days, let us not talk of three months, directors are not just appointed they are supposed to be elected in AGM. Let us instruct the

sitting directors, even if their time lapsed, let them issue a notice of an AGM so that the Company can be able to conduct its AGM, and it can be able to elect the directors.

Then finally, I wonder whether this company has been filing returns as required by Section 486 of the Companies Act and if it has been filing the returns, why have they not provided that information to the relevant which was sitting down. In fact, the committee tried its level best, it is only that they did not get what they required to come up with the report.

So, I want to pause there and I would request any other committee which is working on a County issue, let the relevant department provide what is required so that we can have a tabled. Thank you very much, Mr. Speaker.

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

**Hon. (Ms.) Nziva:** Thank you Mr. Speaker and Members present. I would like to applaud the committee for the commendable work done; they have really tried their level best because you realize that water is life and without good management of our companies across the county, I don't think we can go far. There is need of accountability to these companies but I am concerned because the report is for the year ended June, 2015, I don't know whether the committee went on the ground because there is need for some reflections of the current status.

Now it is 2018 as Hon. Kisini has said and the report was for 2015. So, I am asking myself loudly through the chairperson PAIC whether they have considered the current report. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Hon. Maitha.

**Hon. Maitha:** Thank you, Mr. Speaker. I start by congratulating the team. The Hon. Members, who sat tirelessly for many days to compile this report. It is unfortunate that one of us said this is not a report. I wonder whether papers are for wrapping meat if this is not a report. We must give credit where it is due and therefore we must always try to support a committee for the work it has done.

Mr. Speaker, I also want to support what Hon. Muendo said; what we are lacking here in Machakos is to have a water managing board. A board which can contain all the issues surrounding water.

If we start talking of these boards like the Mwala water company, we must say these directors are not giving service to wananchi, Mr. Speaker. If some water is not accounted for, what can we say? We can only say that this is robbery without violence because these people are stealing the wananchi's money and therefore the only best thing that can be done to those directors is we request for them to be arrested and taken to court. This will serve as an example to other boards which are not doing service to this county, Mr. Speaker.

We have other boards like we have Matungulu-Kangundo water board and in fact, Mr. Speaker, this is the same cry by those people from Matungulu and Kangundo when the directors who are serving those boards were elected, they were not driving cars but if you look at them now they are driving and they have changed their means of living.

In fact, Mr. Speaker, we would wish that an audit be done for every board in the county to see where these people are getting money to do the things they are doing in their areas.

*(Applause)*

Mr. Speaker, when the final recommendations were done, the committee lacked one which is to recommend that these people must be arrested. Let us say in order to save our county, for sure, let us start by arresting people and let us start by arresting the people of Mwala, the directors of Mwala Water Company so that they can show where the money they are talking has not been accounted for has gone to, Mr. Speaker. I support, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Hon. Moffat. Hon. Kasyoki.

**Hon. Kasyoki:** Thank you, Mr. Speaker. I am also a member of this committee. Mr. Speaker, when we met with the management team of Mwala Water Company, they came with the auditors. This is an auditor's report, audit queries; what was surprising is the personnel employed by the Mwala Water Company. They have no qualifications and that is why if you go to page 11, unsupported expenditure where people were taking money, doing purchases but to surrender or to account for was not easy.

That means what? The money they collected from the company they never used in the manner it was supposed to have been used. So, my recommendation is that these people as Hon. Maitha has said, we should not be talking of people sitting in the offices, collecting money and they cannot even get a receipt.

So these people should be prosecuted and all the directors, there is no need of calling a meeting for them to be elected again. They should be prosecuted and they should not hold any office. Mine is that, Hon. Speaker. Thank you.

**Hon. Speaker:** Hon. Member, what is her name? Hon. Irene.

**Hon. (Ms.) Mwende:** Thank you, Mr. Speaker. I commend the committee on the good work they have done to compile a good report. I zero in on the recommendation where the committee recommends that a new board of directors be put in place since the one that was in there is in question due to the funds that are lacking. We can see from the report that already Ksh. 22 million is unaccounted for.

So, I recommend as the committee has done on the recommendations that we put a new board in place. On number two, regulations 104 of the Public Finance Management gives lee way that anyone found guilty, is liable for conviction. Has anyone been convicted in court, so far, on this matter?

On number three, I can see that they have recommended that the debt should be written off. This report is for 2015, if I am not wrong. So, if the report is for 2015, does this Act provide duration on how long a debt should be written off if it has not being able to be recovered. According to accounts, at least a debt should be written off if they have not been able to recover in six years.

If this report is for 2015 at least six years is not over. So, at least all measures should be put in place and should be utilized so that we recover the debt for the benefit of this county. Thank you, Mr. Speaker. I commend the team on the good job.

**Hon. Deputy Speaker:** Thank you, Hon. Irene, Hon. Minority Leader.

**Hon. Kamitu:** Thank you, Mr. Speaker, Sir. Looking at the report, there is an obvious indication that the committee did the job well. They did the best that they could. If we make a bit of a summary of the report of the Auditor General in regard to this management of Mwala, there is are a lot of things to be desired in regard to financial obligations by the office bearers.

Mr. Speaker, Sir, without much ado, we have a report, we have seen our committee really did a well done job. So, now as an Assembly, Mr. Speaker, Sir, my humble request is that we have been given all the analysis and details of the report are there, so the best cause of action before even asking for the County Government to give money to the Mwala Water Company, we should procedurally now try to talk with the Ethics and Anti-Corruption Commission because we have an office.

We have a government office that is supposed to give us a very clear report so that, as the committee or as members have said, this people should be arrested. Before they are arrested and for the ease of the investigation, the best thing is now to get the real report from the anti-corruption unit so that these people if they will be taken to court, there is evidence to convict these people and the evidence is there it is a clear indication that there was a lot mismanagement.

Mr. Speaker, outright, as a layman, if you start a company there are those procedures in any trading company where if there is money exchanging because this is a company which was getting money from the water it was serving to the community, outright there are those easy procedural practices there should be quarterly reports, there is the half-year report and annual report of every running company.

This is exactly what is lacking; an AGM whereby the community is also given a picture of how the company is being run. Looking at this, much was not done, so that is why it resulted to a lot of mismanagement and as a result for us to be on the right direction these people let us involve the anti-corruption unit and a good report and the best direction will come out. Thank you, Mr. Speaker, Sir.

**Hon. Deputy Speaker:** Thank you, Hon. Members, I know call upon Hon. Johanna to respond before we can close this.

**Hon. Munyao:** Thank you, Mr. Speaker, thank you, Hon. Members for your contributions towards this report. I would like to start by appreciating that this is a report of the Auditor General on the financial statements of Mwala Water and Sanitation Company for the year ended June, 2015. It was not a fact finding report; the committee was limited to the aAuditor General's queries and responses from the management of Mwala Water and Sanitation Company.

I buy the idea that further investigations are necessary and therefore as a committee we are ready to do further investigations because we are ready to do all what it calls for to make sure that the entity runs as required.

The issues on elements of mismanagement of the water company such as unaccounted for water where we have seen that although the company produced 263,721 cubic meters of water but managed to bill only 157,449 cubic meters which was close to 60 percent and which was as given in the report 35 percent above the recommended 25 percent. It is an indication that there is

no reason why we cannot see such loses because if they cannot account for such volumes of water then it means the company is not doing well.

The unsupported transactions as one of my members in the committee raised during our interaction with the management it was also evident they have employed unqualified staff because they are not able to pay qualified staff and therefore some queries may also have arose from such arrangements.

Again the lapse of term for the board of directors renders any transactions from the same board not legally binding and therefore we are saying we may not be able to hold the current board accountable for anything, just in case, and therefore need to rush very fast and have a proper board of management on board.

This is an entity which can be a source of continuous supply of water to Mwala people. It can also be a source of employment to our people and also a source of revenue collection to the county if properly managed. It has the potential and we only need to pull up our efforts and ensure that the entity is properly managed.

Just to respond before I conclude, that we were investigating a 2015 report; it was worth noting from this House that on the table of that committee is a report for the year ending June, 2016 so it came when we were in the process of interrogating the 2015 and therefore it will also give us an opportunity to compare and see whether some of the issues which were raised are still reflected on the current report and as I said we are ready to go further and conduct further investigations as maybe directed to the committee to make sure that the entity is safe and well running.

Thank you, Mr. Speaker, thank you, Hon. Members.

**Hon. Deputy Speaker:** Thank you, Hon. Johanna. Hon. Members I now put the question.

*(Question put and agreed to)*

Hon. Members before we move on to the next item which is adjournment a few things I would like to comment on that report before we close.

First of all the audit report which you have heard was discussed is a qualified audit report. A qualified audit report, in most cases, as you will come across this financial statement issued by an audit firm normally provides a position of a company as a particular date, exact, and it gives a position saying whether it reflects a true and fair view of the financial statement of that entity at a particular time.

So, when it is qualified, it means that it does not reflect, according to them, a true and fair view status of the financial position of an entity. That is the reason why it is called a qualified audit report.

The issues which have been raised here and which the committee has gone through are the issues which were raised by the auditors leading them to qualify the report. Our expectation would be that once, as the committee has done, we get that report audited report with those qualifications, it would be important for the committee to go on the ground and do an assessment of whether those gaps which have been identified by the auditors have been closed.

In the report which is being presented before the House, we should have a current status of the position of closing of those gaps; if there is any effort which has been made by the

directors of that company in closing those items. That would be one of the expectations of the House in as far as those reports are concerned.

I look at several items which have been highlighted in that report. Like, for example, Hon. Musyoka talked about huge unpaid electricity bills and he did comment that the bills themselves money might have left County Government of Machakos for payment of those bills and it was not paid. So, my question on that issue would be that, maybe when the committees are looking at this, would it be a suggestion that if the bills are being paid from here then the cheque should be written to Kenya Power so that they do not get the funds and then misappropriate them. Pay the bill directly to the companies involved.

When you look at unsupported documents, like Hon. Kasyoki has talked about. Root cause analysis is key in most of these findings. If you say there is an entity which has unqualified staff, you need to look at the root cause analysis of why do we have unqualified staff in various companies. What is the employment procedure? Who is the appointing entity, what qualifications do they request for when employing people. Because unless you handle it from the root cause where these people were getting into the company then by merely sacking these individuals who have been employed, tomorrow you will still get others of a similar qualification.

So, in the reports which were being brought before here some of the recommendations which are being done should be on identification and curing of root cause of the items of the gaps which have been identified by the audit.

Another item is to question why we are in the year 2018, for example and the office of the Auditor General is presenting a report for 2015. The report for 2016 has just arrived. Root cause analysis dictates is also lacking in doing its mandate of auditing these funds.

We talked about the reason why there is no AGM, Hon. Ndawa; you cannot hold an AGM unless you have an audited reports. So, that explains to you why these companies have not been calling for annual general meeting because they did not have audited reports with them and therefore would not call for the AGM hence remaining with directors who are not supposed to be in office.

So, some of the recommendations which are being made here need to be key and address those specific issues so that we can be able, as a House, to give guidance on the kind of action which is required to correct the anomalies which are being highlighted by the audit reports. Thank you, very much.

## ADJOURNMENT

**Hon. Deputy Speaker:** The House now adjourns to the afternoon today, Tuesday, 27th February, 2018 at 2.30 p.m. Thank you.

The House rose at 11.29 a.m.