

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd July, 2019

The House met at 10.20 a.m.

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

PRAYERS

Hon. Speaker: Good morning, Hon. Members; nice to see you this morning, so we start the sitting for the day.

PAPER LAID

SUPPLY OF WATER TO MASINGA RESIDENTS BY A LOCAL COMPANY

Hon. Kisini: Good morning, Hon. Members. I wish to lay the following paper on the table of the House today, 2nd July 2019: the report of Joint committee on Environment, Lands, Energy and Natural Resources and Devolution and Intergovernmental Relations that the County Government of Machakos liaises with relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga Sub-County.

Hon. Speaker: Thank you, Hon. Kisini. Where is the Paper you have laid? It is not laid until it reaches the desk of the Chair. Thank you.

NOTICES OF MOTIONS

Hon. Speaker: We have two businesses, the first one by Hon. Kisini and the next one by Hon. Maitha. Hon. Kisini.

SUPPLY OF WATER TO MASINGA RESIDENTS BY A LOCAL COMPANY

Hon. Kisini:

That aware THAT Article 43(1)(d) of the Constitution of Kenya, 2010, stipulates that every person has the right to clean and safe water in adequate quantities;
Further, aware THAT Article 174 of the Constitution provides that some of the Objects of Devolution are to give powers---

Hon. Speaker: Hon. Kisini, just a clarification, maybe the table clerks will assist. The Chair notices that the paper that was laid is by the Environment, Lands, Energy and Natural Resources committee; it is a report of that committee jointly with Devolution

and Intergovernmental Relations Committee, right? Mr. Muange, this is a report of the joint committee.

Shouldn't then the Paper also be by the Joint committee and also the Notice of Motion? It should be. I think for the record we need to get it right because you cannot lay a paper by one committee and at the same time do a notice of motion by one committee but then the report is for two committees.

There is a discrepancy in the two, so Hon. Kisini, please come back. Can the table clerk correct for you on the heading of the laying of the paper and the notice of motion so that you lay the paper and give a notice of motion for a report of two committees, but not one committee. You will have to start again.

Hon. Kisini: Yes, Madam Speaker.

Hon. Speaker: You need to insert Paper laid, Hon. Kisini, Chairperson for and on behalf. I am looking at the paper so that you indicate paper laid, Hon. Kisini Chairperson, Environment, Lands, Energy and Natural Resources committee for and on behalf of the joint committees of Environment, Lands, Energy and Natural Resources and Devolution and Intergovernmental relations. Otherwise the other committee is being swallowed in the laying of the paper and on the Notice of Motion.

Hon. Members, as they do that, can we proceed with the next notice of motion to save time then we will call Hon. Kisini after they rectify the anomaly. We have Hon. Maitha proceed with his business under notice of motion.

INCLUSION OF POVERTY ALLEVIATION PROGRAMMES IN THE CIDP

Hon. Maitha:

Madam Speaker, THAT aware that according to a report by the United Nations Children's Fund (UNICEF), approximately 46 per cent Kenyans fall below the poverty line and further aware THAT according to Kenya National Bureau of Statistics (KNBS), the poverty levels in Machakos County are at 59.6 per cent.

Aware THAT Article 43(1) of the Constitution of Kenya, 2010, guarantees every person the right to the highest attainable standard of health, which includes right to healthcare services, including reproductive healthcare, the right to accessible and adequate housing and to reasonable standards of sanitation, the right to be free from hunger, and to have adequate food of acceptable quality, the right to clean and safe water in adequate quantities, the right social security and the right to education;

Noting THAT the Constitution under Part 2 of the Fourth Schedule provides the functions of County Governments to include matters relating to agriculture, county health services, county planning, housing, pre-primary education, village polytechnics and water and sanitation services;

Acknowledging THAT the Republic of Kenya has committed itself under the United Nations to the Sustainable Development Goals (SDGs);

aware THAT goal No. 1 requires parties to (SDGs) to end poverty in all its forms everywhere, further aware that that under the Big Four Agenda, the President of the Republic of Kenya has committed to focusing Kenya's development agenda for the next five years on four thematic areas among them food security;

Hon. Speaker, I wish to give notice of the motion THAT the Assembly approves that the Machakos County Executive does mainstreaming and integrate poverty alleviation programmes in all its planning activities including the County Integrated Development Plan, County Fiscal Strategy Paper, Annual Development Plan and annual budgets and specifically design programmes that target the extremely vulnerable groups in the County including:

1. Creating a revolving fund to support small and medium enterprises (SMEs) for the youth and women by issuing interest free loans to groups and individuals with intention of starting business enterprises.
2. Devising mechanisms of increasing production and providing access to markets for locally produced goods and services while ensuring local consumption of locally produced goods and services.
3. Setting aside funds for school feeding programme in early childhood development centers.
4. Setting aside funds for provision of subsidized vocational training to students in vocational training colleges including village polytechnics. Local youth groups and other community groups are used in undertaking small county government projects including simple road-works, construction of earth dams and tree planting as a way of empowering them and using local workforce.
5. Providing title deeds for the residents to enable them secure credit facilities that can be used for investment considering that majority of Machakos residents are not in formal employment.
6. Partnering with the Kenya National Bureau of Statistics (KNBS) to survey and clearly map out the vulnerable and marginalized groups in the County to facilitate the development of plans to specifically target the extremely poor people in the County with the aim of providing basic services to all.

Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Maitha. I am reminded Hon. Kisini just stood briefly for correction. I believe now you are ready.

SUPPLY OF WATER TO MASINGA RESIDENTS BY A LOCAL COMPANY

Hon. Kisini: Notice of motion, Chairperson Environment, Lands, Energy and Natural Resources Committee and Committee on Devolution and Inter- Governmental Relations.

Hon. Speaker: Hon. Kisini, sorry. Mr. Muange, I drafted the correction and I gave you. The way it is read it sounds like the Hon. Member is chair of the two committees, ordinarily.

Hon. Kisini: Sorry, Madam Speaker, I beg to read it correctly. Chairperson Environment, Lands, Energy And Natural Resources Committee for and on behalf of Environment, Lands, Energy And Natural Resources Committee and Committee on Devolution and Intergovernmental Relations.

Hon. Speaker: No, Chairperson, Environment, Lands, Energy and Natural Resources committee for and on behalf of the joint committee of the Environment, Lands, Energy And

Natural Resources and Devolution and Intergovernmental Relations Committees. Would you take it Hon. Kisini that it reads like I have just read it?

Hon. Kisini: Yes, I will, Madam Speaker.

Hon. Speaker: Proceed and give the notice of motion

Hon. Kisini: Sorry Hon. Members for that short delay. Notice of motion.

Hon. Speaker, THAT aware that Article 43(1)(d) of the Constitution of Kenya, 2010, stipulates that every person has the right to clean and safe water in adequate quantities. Further, aware 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;

Also noting THAT dams prevent flooding and also provide water for domestic industry and irrigation purposes;

Hon. Speaker, acknowledging 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 supply and accessibility to all;

Hon. Speaker, I wish to give notice of motion THAT this Hon. House discusses and approves the report of joint committees on environment, lands, energy and natural resources and devolution and intergovernmental relations that County Government of Machakos liaises with the relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga Sub-County.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Kisini. Mr. Clerk, proceed.

STATEMENT SOUGHT

PROMOTION OF SPORTS AMONG PWDS BY THE COUNTY GOVERNMENT

Hon. Speaker: Hon. Members, under this Order, we have one business by the Hon. Jacinta. Hon. Jacinta Luka; if you can access the microphone just from where you are seated, you can proceed. We will hear you.

Hon. (Ms.) Luka: Thank you, Madam Speaker. Hon. Speaker, Article 54(1) of the Constitution provides that a person with any disability is entitled to:

(a) To be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning.

(b) To access educational institutions and facilities for person with disabilities that are integrated into society to the extent compatible with the interests of the person.

(c) The reasonable access to all places of public transport and information.

(d) To use sign language, braille or other appropriate means of communication and

(e) To access material and devices to overcome constraints arising from the person's disability.

Further, Section 28 of the Persons with Disabilities Act No. 14 of 2003 provides that:

(1) All persons with disabilities shall be entitled free of charge to the use recreational or sports facilities owned or operated by the Government during social sporting or recreational activities.

(2) Persons with disabilities shall be entitled to participate in all national and international sports events.

(3) For the purpose of sub section 2, the ministry responsible for sports shall in consultation with the Council, provide the necessary suitable environment including

(a) Architectural infrastructure.

(b) Apparatus and equipment.

(c) Training and medical personnel.

(d) Transportation facilities for the participants.

Hon. Speaker, pursuant to Standing Order 41(1), I wish to seek the following statement: what measures the County Government of Machakos has put in place to promote sports among PWDs. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Jacinta Luka. Hon. Members, this is a statement being sought by the Hon. Member and ordinarily, we just make comments and then we commit the question to the relevant committee.

Hon. Museku: Thank you, Madam Speaker. I stand here to support that statement that has been raised by the Hon. Member, Jacinta Luka, in terms of trying to find out what our government is doing towards ensuring that persons with disabilities participate fully in sporting activities and other recreational items. Madam Speaker, if you look at the provisions of Section 28 which talks about persons with disabilities shall be entitled to participate in all national and international sports events and as such architectural infrastructure should be provided, apparatus and equipment, training and medical personnel and transportation facilities for the participants, not even in sports Madam Speaker, are we having these challenges but also in the normal architectural designs of even buildings.

You are going to most buildings and you find that they have not made provisions for PWDs. You go and find a building has been constructed, it has got staircases and it does not have a provision for either a lift or a flat platform within which people with disability can be able to undertake. You also find that in our stadiums, for example if you go to Kenyatta stadium here which we utilize for sports, you will not find that that sports stadia has been designed to cater or to include the needs of persons with disabilities. If you go there you will not find the specialized training apparatus for PWDs and therefore, I think it is important, as a government, we focus ourselves on ensuring that there is inclusivity of all people in as far as training and sports are concerned.

Madam Speaker, in our budget which we just concluded, we did make a provision for a mere 10 million shillings for that department so that they can be able to utilize those funds to enhance activities for PWDs. We would like Madam Speaker, to see the government putting more funds in this issue so that we can be able to cater for all our people with disabilities, most of whom are actually languishing at home with sports talents but unless they are exposed and unless they are given these facilities for them to be able to utilize the best of their talents in their own area Madam Speaker, we shall not be able to nurture that and we will be missing out on a very important aspect of life.

So Madam Speaker, I stand to support the statement and seek that the relevant committee takes up with the relevant department on the County Executive side and comes up with ways in which we can be able to address these deficiencies. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Hon. Majority Leader, Mark Muendo.

Hon. Muendo: Thank you, Madam Speaker. Let me also support the statement by Hon. Jacinta Luka by one, saying Hon. Speaker, that in our county we are lagging behind on the section to deal with PWDs. Let me say Madam Speaker, sports is very important. It is a healthy activity which everybody needs so the people living with disability also require that health activity.

Madam Speaker, for example Machakos Government is now doing the stadiums in the eight sub counties. I have seen the drawings; there is no facility for people living with disability in those stadiums. Let me say because they are done 20 percent, I will ask the members where the stadiums are being constructed, the Hon. Members, to make sure there are those facilities for the people living with disabilities. Most of those activities Madam Speaker are in door games and when we do those stadiums in the eight sub counties without thinking that we have among us our people who were not blessed to have all the limbs, then we should not be talking about County Government of Machakos being inclusive.

So Madam Speaker, this is very timely and in the next financial year Madam Speaker, this House must consider not now the Executive, this House must consider putting substantial money in the budget for the people living with disabilities. For one, we have very many who are living in our villages and maybe most of them are good sportsmen and sportswomen but since the facilities are not there Madam Speaker, we cannot exploit their talent.

South Africa is in Africa and we cannot say it is in Europe where you find the champions who win Olympic Games. They are disabled and they bring a lot of money to South Africa. So this County of Machakos, the place to be, should be considered, we should consider as leaders that we include those facilities for our people living with disabilities. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Majority. Hon. Katumo.

Hon. Katumo: Thank you, Madam Speaker. I want first to congratulate my sister, Hon. Jacinta Luka whom we share the portfolio of representing persons with disabilities in Machakos County as the female colleague, I the male. I want specifically to really second and support the statement but before that, there is something the immediate speaker has said that he has seen the drawings of the stadiums being constructed by the County Government of Machakos.

When we were interrogating the budget and I posed the question to the CO he said they have something they are constructing, an annexure for the PWDs. I have not seen the drawings but that being the case, then he lied to us as a committee, but let me say that sports is very important, thanking the member because of quoting specifically the relevant provisions and legislation of the law that matter and it is good information to us to know that of course, persons living with disabilities should lead in decent and dignified livelihood in all spheres of their life.

There are those within our categories who cannot go to school because of their nature, cannot do business but they have that talent that we want to tap and one of them is sporting. You know sports are very important for us. It is very therapeutic in terms of it builds us; it makes us even more comfortable and fit in life and therefore it is very important for the County

Government of Machakos to make sure that they support disability sports because they are very important.

As I stand here Madam Speaker, I'm one of the Paralympians, I have been going out you know that and it is important to know that. Others cannot because they cannot access facilities. If it is power lifting that I do, you need to get a good gym where you pay not less than Kshs. 300 per day, per session, and therefore if you cannot afford, then you cannot become a Para powerlifting athlete, and therefore is very important to have this at our disposal in Machakos County.

Last week we had PWDS CAF Summit and we were sharing experiences with various representatives from different counties. There were a lot of challenges. For example, Uasin Gishu County itself, in their budget they have made sure they have of course allocated their budget in terms of the wards and the Executive. The ward will get 40 per cent of the total development vote and the Executive will get 60 per cent. Of the 40 per cent, five percent in every ward goes to issues of disability. I don't know whether we have done the same, but saying that I think the County Government of Machakos in the past has tried but not good enough; we need them to do more.

I will be coming to you personally as members because this coming August we will have a sports event, the national sporting event where we will be selecting our national team for sitting volleyball that will be going to Kigali, Rwanda in September to try to qualify for the Tokyo 2020 Paralympic Games and this is very important. In Machakos County, we have the prominent, actually as I speak, the best player in Africa comes from Machakos County---

(Applause)

That we do with my colleague, Mheshimiwa Jacinta, from our pockets to make sure they are available for trainings and everything else and therefore it is very important the County Government comes in, the County Assembly should also come in to make sure that...of course the section that Hon Jacinta has quoted which says that in (b) to access educational institutional facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person and of course, access to all places, public transport and information.

I think when we talk about Machakos County Government, we talk about the Assembly which means Madam Speaker, you will agree with me, even the bus here is public, for County Government, and therefore we should also be given when we are going places as people with disability doing sports to access and to do the right thing because when we raise the flag, we do it for Machakos County, isn't it?

Hon members therefore, is very important for us to support in all areas and to make sure that we do that and therefore Madam Speaker I'm happy that by this statement, it will awaken us as a County Assembly and the Executive to make sure that they take a lot of consideration. You have seen the budget and I want to thank the Budget committee because they saw it is good to include some budget, though it's not enough but it's a good starter, and to specifically mention the areas that they want that money to be spent. One of them is sports talent and I believe that going forward, that will be implemented and it will be good. Thank you Madam Speaker.

Hon. Speaker: Thank you Hon Katumo. Hon Members the statement is committed to the committee on Youth, Women and Sports and the committee is required to bring the answer,

remember it is a question, to bring the answer to this House on or before the 17th July 2019. That is just about two weeks.

The reason is that the assemblies are preparing for the CASA games and it is important that the persons living with disabilities are assisted in whichever manner to be able to participate in those games and they are going to be in September in Uasin Gishu. So we have just about one month, excluding July, so let the committee bring that report to this House.

And then there is also something tied to this that members I was...Hon Mutiso is not here, I have been planning with Hon. Mutiso for the members and myself to visit the school for the physically disabled, APDK. It is just here in town and the principal I had promised him, that was before we went... Hon Kiilu...yes, I talked to the principal because he sent word that he wants the Assembly to assist that school. We understand they sometimes don't have enough food because of the little allocations from the National Government. We know that, that is a school under the National Government but it is a school that is in our County and because of the special reason for the children who are in the school, it is important that we step in in whichever way we can.

So we will be visiting that school and it will be out of our pockets. I know you are saying the pockets are dry but if you are eating yourselves, you can also make those children eat something one day and be happy with you, isn't it? So we will plan it and we will tell you and not before they close at least this term. We were supposed to go last term so we will go so have that in mind so that we can also assess their situation and also give them morale and talk to them. Thank you.

MOTION

SUPPLY OF WATER TO MASINGA RESIDENTS BY A LOCAL COMPANY

Hon. Speaker: Hon Members under this order we have one business by Hon. Kisini,

Hon. Kisini: Madam Speaker, before I continue, I beg to make some corrections for the heading. Report of joint committee on Environment, Lands and Natural Resources and Devolution and Inter-governmental Relations committee. Task: County Government of Machakos Liaises with relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga Sub-County.

Hon. Speaker: Hon Kisini first you do the motion.

Hon. Kisini: Madam Speaker I want to lay the motion in front of the House.

Hon. Speaker, THAT aware that Article 43(1)(d) of the Constitution of Kenya, 2010, stipulates that every person has the right to clean and safe water in adequate quantities;

Further aware 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, also noting that dams prevent flooding and also provide water for domestic, industry and irrigation purposes.

Hon. Speaker, acknowledging 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;

Hon. Speaker, I wish to move the motion THAT, this Honorable House discusses and approves the Report of Joint Committees on Environment, Lands, Energy and Natural Resources and Devolution and Intergovernmental Relations that County Government of Machakos Liaises with Relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga Sub-County.

Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon Kisini. Who is seconding you?

Hon. Kisini: I request Hon. Kieti to second the motion.

Hon. Speaker: Hon. Kieti is not in. Hon. Fredrick Muthoka, you are up; you want to second the motion? Go ahead.

Hon. Muthoka: I second the motion, thank you.

(Applause)

Hon. Speaker: Hon. Kisini. Point of order Hon. Ndawa.

Hon. Ndawa: Thank you Madam Speaker. Guided by Standing Order 52 (1), I wish to amend the title of the report of the joint committee on Environment, Lands and Natural Resources and together with the committee of Devolution and Inter-Governmental relations to read as follows: that the County Government of Machakos liaises with relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga Sub-County, Matuu town in Matuu ward, Ndalani ward and Ikombe ward. Thank you Madam Speaker. I call upon Hon Justus Kiteng'u to second me.

Hon. Speaker: Before you do that, can I see what you have been reading Hon Ndawa, I don't have it. When you are reading the proposed amendment Hon Ndawa, you said you are basing it on Standing Order 52(1). Alright Hon. Members, I notice that the request for the amendment was forwarded to the Office of the Speaker at least two hours before the motion was moved.

I asked Hon Ndawa just now to show me what he is reading because I only saw it early in the morning in my office but he didn't give it to me and remember, that was informal; here we are now in the House, so you first must show the Chair before you proceed or you have two sets for yourself and for the Clerks' Table.

So then Hon. Members, it is noted that the proposed amendment really is to serve the interest of the people in the County. The same people of the three wards that are being sought to be included in the motion are also entitled to sufficient water under the Constitution and if they can be given out of the project that is addressed in the report, so be it. So, we really don't need to belabor on that point and the proposed amendment is allowed.

(Applause)

Hon. Kisini, you proceed. Proceed now and read the report.

Hon. Kisini: Report of joint committees on Environment, Lands, Energy and Natural Resources committee and Devolution and Inter Governmental Relations committee---

Hon. Speaker: Hon. Kisini, in line with the amendment, those three wards; are they all in Masinga Sub-County?

Hon. Kiteng'u: They are not all in Masinga Sub-County.

Hon. Speaker: So, it is in which two Sub-Counties?

Hon. Kiteng'u: They are in Yatta Sub-County and Masinga Sub-County.

Hon. Speaker: So, Hon. Kisini, kindly add "of Masinga and Yatta Sub-Counties."

Hon. Kisini: Yes.

Hon. Speaker: Okay. Masinga and Yatta Sub-Counties.

Hon. Kisini: I beg to repeat again Madam Speaker. Report of the joint committee on Environment, Lands, Energy and Natural Resources committee and devolution and the Inter-Governmental Relations committee. Task: County Government of Machakos liaises with relevant water bodies to allow a company the mandate to supply water to the residents of Masinga Sub-County and Yatta Sub-County.

Hon. Speaker: Proceed, Hon. Kisini.

Hon. Kisini: Hon. Speaker, the Constitution of Kenya, 2010, Article 43(1)(d) stipulates that every person has the right to clean and safe water in adequate quantities. Further Madam Speaker, the Fourth Schedule of the Constitution of Kenya mandates both the Counties and the National Government with matters of water. The National Government is responsible for water protection, securing sufficient residual water, hydraulic engineering and the safety of dams whereas the County Governments are bestowed with the responsibility of storm water management systems in built-up areas and water and sanitation services.

Hon. Speaker, a motion seeking that County Government of Machakos liaises with relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga sub-county was moved in this Hon. House. The motion was referred to the Joint Committees of Environment, Lands, Energy and Natural Resources and Devolution and Intergovernmental Relations for detailed findings and reporting to this House.

The Committee managed to have a site visit at Masinga Treatment Works on 4th February, 2019 whereby they had the opportunity to meet the management of the treatment works and some residents of Masinga Ward. The committee further sought some information from the department of water on the matter at hand which was responded to and later they retreated for report compilation on the task given.

Hon. Speaker, the Committee on Environment, Lands, Energy and Natural resources is a sectorial Committee established under Standing Order 190 and the second schedule with specific mandates to All matters related to the implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances, and outdoor advertising; land survey and mapping; boundaries and fencing; electricity and gas reticulation; energy regulation; water management systems in built-up areas and water sanitation services.

Further Hon. Speaker, pursuant to County Government of Machakos Standing Order 189(3)(a) to (f), the Committee on Devolution and Intergovernmental Relations is mandated to—

Hon. Speaker: The Standing Orders are for County Assembly or is it for County Government? We need to correct that Mr. Muange.

Hon. Kisini: Pursuant to County Government of Machakos Standing Order 189(3)(a) to (f), the Committee on Devolution and Intergovernmental Relations is mandated to:

- a) Liaise with Institutions of the County Government on matters of devolution.
- b) Liaise with Institutions of the National Government on non-devolved functions.
- c) Coordinate activities of the Assembly with the County Assemblies Forum.
- d) Coordinate activities of the Assembly with International bodies.
- e) Promote inter-county relations on matters of common interest

Hon. Speaker, the membership of the aforementioned committee is as follows:-

- | | | |
|---------------------------|---|-----------------------------|
| 1. Hon. Robert Kisini | - | Chairperson (Environment) |
| 2. Hon. Jeremiah Munguti | - | Chairperson (Devolution) |
| 3. Hon. Christine Koki | - | V/Chairperson (Environment) |
| 4. Hon. Johana Munyao | - | V/Chairperson (Devolution) |
| 5. Hon. Alex Kamitu | - | Member |
| 6. Hon. Brian Kisila | - | “ |
| 7. Hon. Cosmas Kieti Muia | - | “ |
| 8. Hon. George King’ori | - | “ |
| 9. Hon. Hellen Ndeti | - | “ |
| 10. Hon. Jacqueline Nziva | - | “ |
| 11. Hon. Jane Nyawira | - | “ |
| 12. Hon. Joseph Musau | - | “ |
| 13. Hon. Mark Muendo | - | “ |
| 14. Hon. Michael Mutiso | - | “ |
| 15. Hon. Daniel Kiilu | - | “ |
| 16. Hon. Benedette Mueni | - | “ |
| 17. Hon. Justus Katumo | - | “ |
| 18. Hon. Francis Ngunga | - | “ |
| 19. Hon. Phoebe Koki | - | “ |

Legal Framework

Hon. Speaker, Article 20(2) of the Constitution provides that every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the

nature of the right or fundamental freedom. Further, Article 43(1)(d) provides that every person has a right to clean and safe water in adequate quantities.

Further Hon. Speaker, the Tana and Athi Rivers Development Authority (TARDA) is a statutory body established by Section 3 of the Tana and Athi Rivers Development Authority CAP 443, Laws of Kenya. The functions and responsibilities of the Authority are outlined in Section 3 of CAP 443. It is mandated to draw up and keep an up to date, a long-range development plan for the Area by a collection of data, analyzing and managing the information system on water resources. TARDA functions encompass integrated planning and coordination of all development projects for the purpose of utilization and protection of water and soils of the area.

Hon. Speaker, considering that Masinga dam is one of the seven dams developed for the generation of hydroelectric power on the Tana River, the role of TARDA as one of the Water Works Development Agencies established in accordance to section 65(2) of the Water Act 2016 includes among others; undertaking the development, maintenance and management of the National public water works within its area of jurisdiction; operation of the waterworks and provide water services as a water service provider, until such a time as responsibility for the operation and management of the waterworks are handed over to a county government, joint committee, authority of county government or water services provider within whose area of jurisdiction or supply the waterworks is located; provide reserve capacity for purposes of providing water services where pursuant to section 103, the Regulatory Board orders the transfer of water services function from a defaulting water services provider to another licensee; and provide technical services and capacity building to the county governments and water services providers within its area as may be requested based on Section 68, Water Act, 2016.

Section 77 of the Water Act, 2016 provides that the county governments shall establish water services provider which shall be a body corporate. In establishing the said water services providers, the county government shall comply with the standards of commercial viability set by the Water Service Regulatory Board.

Section 154 of the Water Act, 2014, provides that the existing water service providers shall continue to operate as the county water services providers or cross county water services providers as the case may be within the period specified in the transfer plan published by the Cabinet Secretary.

The Machakos County Water and Sanitation Act, No. 1 of 2014 makes provision for water and Sanitation services, creation of Machakos County Water Board and water service provider, water works, storm water management systems, water conservation and related purposes. However, the provision of the said Act are yet to come into operation as the Executive Committee Member responsible for matters relating to water, irrigation and sanitation is yet to issue a commencement date for the said Act to date.

Report of Chief Officer in the Department of Water

Hon. Speaker, the committee wrote a letter to the Chief Officer in the Department of Water and the following was reported:

1. That Masinga water treatment works is a property of Kitui Water and Sewerage Company (KITWASCO) which was developed by the National Government before the onset of devolution. As such, the current beneficiaries are the residents of both Kitui and Machakos County.
2. Hon. Speaker, though the project is administered by KITWASCO, the design of the project considered the residents of Machakos County in Masinga Sub-County who were factored as

beneficiaries to the project. The infrastructure is however, progressively being transferred to the Yatta-Masinga Water and Sanitation Service Provider following negotiations by the two County Governments of Kitui and Machakos.

3. The County Government is currently doing an audit of the infrastructure in readiness for change of ownership. Once the transfer of the Kamuthumba – Masinga – Ekalakala line is completed, the residents of Machakos County will no longer need to travel to pay bills in the neighboring Kitui County.
4. The committee was further informed that plans are underway for a new water line from Kindaruma Dam along the seven folks with the feasibility study being undertaken to draw water from the dam for irrigation and domestic use for Mwingi East in Kitui County. This project is also fully funded by the County Government of Kitui.
5. Considering that water is a shared resource, and that the project has been authorized by the relevant government agencies, the department hopes to negotiate for consideration of the neighboring community as the water shall be extracted from the Kindaruma dam which is solely in Machakos County.

Meeting with the residents of Masinga

Hon. Speaker, Article 196(1)(b) of the Constitution of Kenya, 2010 stipulates that a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees. The Committees met the residents of Masinga on the agenda of water on 4th February, 2019. Hon. Speaker, from the public forum, the Committee was informed that:-

1. There are some residents who evade payment of bills by installing their illegal connections to do farming and other domestic uses.
2. Consumers of water from Masinga and environs pay their bills at Kitui where KITWASCO (Kitui Water and Sewerage Company) is situated and the distance is too long thus straining the consumers from Masinga and the environment.
3. The residents of Masinga complained that the quantity of water which is supplied to them is too minimal and as a result unable to meet their needs.
4. The residents further complained that all the employees at Masinga Water Treatment Works are residents of Kitui, something which is deemed to be against the spirit of devolution.
5. The residents unanimously supported the proposal that the county government liaises with relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga sub-county and its environs since by so doing the burden of travelling to Kitui to seek for services would be a thing of the past.

Meeting with Yatta Water Company Officials

Hon. Speaker, the Committees also had an opportunity to hear from Masinga Water Treatment works management and they gathered the following information:-

1. That the project in contention lies in Masinga Sub-County, Machakos County.
2. That the treatment works serves or currently distributes water to the residents of Masinga, Kithyoko and Kitui.
3. That the current treatment works is small compared to the demand of water expected.
4. That the only solution to the current predicament is construction of another treatment works which will enable distribution of a bigger percentage of water to the users.

5. There is a gate valve at a place called Kamuthumba in Masinga which can be regulated to ensure that all beneficiaries get water.
6. Masinga dam is the source of livelihood of the people of Masinga Sub County.
7. The Masinga water Company is managed by Kitui Water Services Company (KITWASCO) under Kitui County Government and recharges flow into other several streams along its way.

Committee Observations

Hon. Speaker,

1. That Masinga dam is an embankment dam on the Tana River, the longest river in Kenya and it straddles the border of Embu and Machakos Counties.
2. Masinga dam was constructed for specific purposes such as water supply, flood control, irrigation, navigation, sedimentation control, irrigation, navigation and hydropower.
3. The committee observed that the main objective of the project is to improve reliability, accessibility of enough quantity of water for domestic and commercial uses for Masinga, Kivaa, Yatta, Kithimani, Ikombe, Ekalakala and environs.
4. The treatment facility at Masinga dam is small in size and therefore unable to treat the expected amount of water. As a result there is need for a bigger treatment facility and reticulation works.
5. Many pipes have been vandalized and the edges are not protected/fenced thus posing many risks to both human and animal lives.
6. The Committee observed that both the Masinga residents and Masinga Water treatments Works Management were in full support of the proposal citing that it will improve the livelihood of the said communities.
7. The committee observed that the distance from the treatment works to Kamuthumba was long and bumpy and the piping works was thin thus unable to accommodate large amounts of water.

Further Observations

1. Masinga dam will continuously serve as a recreational facility within Machakos County
2. In addition to helping farmers, the dam helps in preventing loss of life and property caused by floods.
3. Masinga dam has tremendous potential for economic uplift and growth. It is a great source of water storage and irrigation thus improved livelihood.
4. The facility is a great source of electrical generation, debris control, navigation etc.
5. There is potential of Growth of secondary businesses like hotels in Masinga, Kivaa, Ekalakala, Ikombe, Kithimani and to an extent, Yatta Sub-county and environment.
6. Improved water supply, sanitation, and Health within the project area
7. Improved well-being of women and children
8. Reduced conflicts among users of Masinga and Kitui since each will be independent.

Committee Recommendations

Hon. Speaker, pursuant to Section 77 of the Water Act, 2002 that provides that the County Governments shall establish water service provider which shall be a body corporate; Further aware THAT Section 154 of the Water Act 2016 provides that the existing water service providers shall continue to operate as the county water service providers or cross-county water

service providers as the case may be within the period specified in the transfer plan published by the Cabinet Secretary.

In view of the above and considering that most of the assets and obligations in water sector are yet to be transferred fully to the County Government, the committee recommends the following:-

1. Pursuant to the Fourth Schedule of the Constitution of Kenya on the functions of National and County Governments, storm water management is a function of County Government. In line with this, the County Government of Machakos in 2019/2020 should budget to rehabilitate the existing Masinga dam project. This will reduce shortage of water and also complement the water supplied by the Yatta Water Service Company.
2. That Masinga dam is a huge water project which can result to a great loss of economy if left unattended bearing in mind that it serves both the County and National Governments and therefore the county government should ensure all measures are taken to maintain it.
3. The transfer process by the two counties so as to establish the Yatta – Masinga Water and Sanitation Service Provider to be fast-tracked for the sake of Machakos residents.
4. There is need for the county government to construct some fence around the dam to protect the facility from pipes being vandalized by both animals and humans.
5. The County Government needs to budget in the FY 2019/20 for a bigger treatment facility in Masinga dam so that a bigger amount of water is treated and supplied to a bigger number of consumers in Masinga and Yatta Sub-Counties.
6. The Machakos County Water and Sanitation Act, 2014 to be reviewed so as to align with provisions of Water Act, 2016 as relates to water service providers and management of water resources by the County Governments.

Conclusion and Acknowledgement

Hon. Speaker, a dam is the cornerstone in the development and management of water resources development in a county and Masinga dam is not exceptional. Self-reliance is very important and it would be a great milestone after getting a Service provider within Masinga Sub-County.

Hon. Speaker, the Joint Committees on Environment, Lands, Energy and Natural Resources and Devolution and Intergovernmental Relations are grateful to the office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the Joint committees' sittings and visitations. I wish to express my appreciation to the Hon. Members who sacrificed their time to participate in the activities of the Committees' and in preparation of this report.

Hon. Speaker, it is, therefore, my privilege, on behalf of the Environment, Lands, Energy and Natural Resources Committee to table this report and recommend it to this House for consideration and adoption. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Kisini. I am taking it that Hon. Member Kisini, the last paragraph where you say it is your privilege, on behalf of the Environment, Lands, Energy and Natural Resources committee, we are also including the other committee for Devolution and Intergovernmental Relations, correct?

Hon. Kisini: Yes, correct.

Hon. Speaker: Okay. Thank you, Hon. Kisini. Hon. Members, I now propose the question that this House discusses and approves that the County Government of Machakos liaises with relevant water bodies to assign a local company the mandate to supply water to the residents of Masinga and Yatta sub-counties.

Hon. Members, I invite you to debate the motion, but sorry, before you do that, I will suspend the sitting briefly up to 2.30 p.m. because the House Leadership, including myself, are going to the Office of the Governor for purposes of assenting the Appropriation Bill. We are going to be there at noon and I notice that we have just about 25 minutes to go there, so if we start the debate, we will not finish before we go, so we will continue where we have stopped on this motion at 2.30 p.m., Hon. Members.

ADJOURNMENT

Hon. Speaker: At this point, Hon. Members, the sitting of the House is adjourned to commence on the 2nd day of July, 2019 at 2.30 p.m. Thank you.

The House rose at 11.35 a.m.