

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 6th December, 2022

The House met at 2.53 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

ATTENDANCE TO PLENARY SITTINGS
AND MEETINGS OF THE ASSEMBLY

Hon. Speaker: I have the following communication to make concerning your mandate and especially attendance to plenary sittings and meetings of the Assembly. Hon. Members, Article 183 of the Constitution and Section 8 of the County Governments Act provide the functions of the County Assembly which can be summarized as follows:

- (a) Legislation;
- (b) Oversight; and
- (c) Representation.

These functions and mandates are undertaken by Hon. Members through Plenary Sittings and Committees and it is therefore very critical that Members treat Plenary and Committee sittings including retreats and site visits with utmost importance as they form the basis why you were elected.

Further, as you recall each Hon. Member ascribed to Oath of Office pursuant to Article 74 of the Constitution. In the Oath, each of you vowed to serve the people and the Republic of Kenya in the elected ward diligently and also defend the Constitution.

With the foregoing, Hon. Members, it has been brought to my attention that Members are not attending committee sittings as it should or are making technical appearances in Committees both in the Assembly and in retreats.

In addition, this morning the House almost lacked quorum and this would have portrayed the Assembly in a negative way noting that our proceedings are live on YouTube. Hon. Members, Article 194(1) of the Constitution provides that, the office of a member of a county assembly becomes vacant—

- (a) If the member dies;
- (b) If the member is absent from eight sittings of the assembly without permission, in writing, of the speaker of the assembly, and is unable to offer satisfactory explanation for the absence;
- (c) If the member is removed from office under this Constitution or legislation enacted under Article 80;

- (d) If the member resigns in writing addressed to the speaker of the assembly;
- (e) If, having been elected to the assembly—
 - (i) As a member of a political party, the member resigns from the party, or is deemed to have resigned from the party as determined in accordance with the legislation contemplated in clause (2); or
 - (ii) As an independent candidate, the member joins a political party;
- (f) At the end of the term of the assembly; or
- (g) If the member becomes disqualified for election on grounds specified in Article 193 (2).

Further, Hon. Members, Standing Order 222 provides that:

- (1) If, during any Session, a Member is absent from eight sittings of the Assembly without permission in writing from the Speaker, the Speaker shall report the matter to the Assembly and the matter shall stand referred to the Committee of Powers and Privileges for hearing and determination.
- (2) The Committee of Powers and Privileges shall inquire into a matter referred to it under paragraph (1) within fourteen days from the date the matter is referred to it and shall thereupon submit a report to the Assembly.
- (3) If the report of the Committee finds that the Member has offered a satisfactory explanation for the Member's absence from eight sittings of the Assembly without the permission in writing from the Speaker, there shall be no further proceedings in the Assembly in respect of the matter.
- (4) If the report of the Committee finds that the Member has not offered a satisfactory explanation for the Member's absence from eight sittings of the Assembly under paragraph (1), the Chairperson of the Committee or a Member of the Committee designated by the Committee for that purpose shall, upon submitting the report, give a three days' notice of a Motion that, "This Assembly notes the Report of the Committee of Powers and Privileges laid on the Table of the Assembly on ... regarding....." with other necessary modification.
- (5) A Motion under paragraph (4) shall be debated in the usual manner of debating Motions, except that—
 - (a) No amendment shall be permitted to the Motion;
 - (b) The debate of the Motion shall not be anticipated by a Motion for the adjournment of the Assembly, and no dilatory Motion shall be moved in relation to the business, and the business shall not be interrupted under any Standing Order.
- (6) At the conclusion of the debate on a motion under paragraph (4), the Speaker shall not put a question but shall declare that, pursuant to Article 194(1)(b) of the Constitution, the office of the Member concerned has become vacant.

Hon. Members, the Constitution and our Standing Orders give a lot of emphasis in the attendance of plenary sittings and one can be able to lose their sits as a result of absenteeism. The system of the Assembly and more specifically the HANSARD is very robust and fool proof that attendance of Members is well captured in it.

I need to emphasize that, you need to follow the Constitution and Standing Orders and when not able to attend the sittings, clearly get permission from the Speaker in writing as prescribed.

Further Members, I also wish to bring to your attention of Standing Order 167 which provides:

- (1) If a member fails to attend four consecutive sittings of a Committee without the written permission of the chairperson of the Committee or the permission of the Speaker if the member is the chairperson, the chairperson or the Speaker, as the case may be, shall notify the Committee of the failure.
- (2) The Committee having noted the notification under paragraph (1) may resolve that the member or the chairperson as the case may be, suspended from the membership of the committee and that the matter be reported to the Committee on Selection.
- (3) Upon receipt of a report under paragraph (2), the Selection Committee shall consider the matter and shall propose a replacement of the member for approval by the House.

I urge the Chairs to be fully in-charge of their Committees and ensure Members attend Committees and participate fully. The systems of Committees are robust beyond the physical register that you Members sign and can be verified. The Clerk should ensure that only Members who attend Plenary and Committee sittings and retreats are the ones who sign the registers and those who have been paid and have not attended should be surcharged. Finally, let me urge each of you to serve the people who elected you with utmost faith. Thank you, Hon. Members.

NOTICE OF MOTION

REPORT ON HARASSMENT OF MEMBERS OF THE PUBLIC BY MICROFINANCE INSTITUTIONS IN MATUU

Hon. Speaker: May I call upon Hon. Peter Kilonzo to give the notice of motion.

Hon. Ruth Wanjiru (Nominated, CCU): Thank you, Madam Speaker. I am standing in for Justice and legal affairs committee chairperson, Hon. Peter Kilonzo.

Hon. Speaker, that aware that the Committee on Justice and Legal Affairs is a select Committee which draws its mandate from the Machakos County Standing Order 190 of the Second Schedule which defines its mandate as follows; to deal with all Constitutional affairs, the administration of law and justice, including elections, ethics, integrity and anti-corruption and human rights;

Aware that Article 231 of the Constitution of Kenya, 2010 as read together with the Microfinance Act, 2006 of Parliament provides for the licensing, regulation and supervision of microfinance business and for connected purposes;

Noting that pursuant to Standing Order 41, a Statement on institutions masquerading as microfinance institutions and loaning members of the public monies and later auctioning their property was sought in the House on 18th October, 2022 and referred to the Justice and Legal Affairs Committee;

Hon. Speaker, I wish to give Notice of Motion THAT this Hon. House approves the report of the Justice and Legal Affairs Committee on harassment of Members of the public by microfinance institutions in Matuu.

Thank you, Madam, Speaker.

Hon. Speaker: Thank you, Hon. Member.

STATEMENT REPLY
PRELIMINARY REPORT ON STATUS OF OPERATIONS
AT KANGUNDO LEVEL IV HOSPITAL

Hon. Speaker: May I call upon Hon. Vincent Mutie, Chairperson of Health and Emergency Services committee to proceed and respond to the statement that was sought by Hon. Dickson Maundu.

Hon. Vincent Mutie (Upper Kaewa/Iveti, WDM-K): Thank you, Madam Speaker. I stand here to present the response following a Statement that was sought in this House regarding Kangundo Level IV Hospital.

Hon. Speaker, Standing Order 41(d) provides that where a member requests for a statement from the Committee Chairperson relating to matters under the mandate of the Committee, the Speaker may either appoint a day for the statement or direct that the statement sought must be restricted to matters within the mandate of the Committee and which have been exhaustively dealt with and concluded by the Committee or where the Chairperson is authorized by members to issue preliminary reports to the house.

A Statement on the status of Kangundo Level IV Hospital was sought in this Hon. House on 16th November, 2022 by Hon. Dickson Maundu, MCA for Kangundo Central Ward. The Statement was committed to the Health and Emergency Services Committee to report on or before 6th December, 2022.

The Committee engaged the Department of Health and Emergency Services and the response is as follows:

HOSPITAL OPERATIONS

Hon. Speaker, the hospital is not operating optimally due to various challenges which include insufficient resources such as finances and human resource. In addition, the hospital has infrastructural challenges and is need of a master plan and overall renovations. In this regard, most departments lack adequate space and are not in ideal location within the hospital compound thus needing re-organization.

INFRASTRUCTURE

The hospital is fenced with a live fence reinforced with barbed wire that has gaps exposing some areas and hence weakening security. The hospital does not have adequate security lights in form of floodlights.

Step taken to address the inadequacies

The hospital has a bill of quantities from the public works officer of Ksh. 14,684,750 for the proposed construction of a perimeter wall that was forwarded to the Chief Officer.

The security company has downsized their staff from thirteen to two due to a huge pending bill of over Ksh. 2M. The two are not adequate for the facility.

Step taken to address the inadequacies

The hospital has engaged three security casuals to guard the hospital at night.

The mortuary has four chambers, with only two working sub-optimally at the moment thus holding twelve bodies.

Steps taken to address the inadequacies

Request for repairs for the two chambers has been forwarded for facilitation. The mortuary requires an expansion and overhaul.

STAFFING

Most departments need additional human resource. However the most affected are; medical officers, health record officers, clinical officers, nurses, drivers and support staff especially cleaners, security guards and patient attendants.

Hon. Speaker: Hon. Member, you can skip the tables and just go to the---

Hon. Vincent Mutie (Upper Kaewa/Iveti, WDM-K): Thank you, Madam Speaker. I am guided. Hon. Speaker, the pending unpaid salaries for casuals and other cadres engaged on locum namely drivers, records officers, medical officers, clinical officers have been forwarded for facilitation from the Chief Officer. The hospital has 23 casuals who have not been paid for a duration ranging from two to 19 months with an outstanding pending bill of Ksh 2,800,000. There are those who were on locum and left to non-payment of their dues and their bill is Ksh. 3,389,700. Total outstanding pending bill is Ksh. 6, 219,700.

Hon. Speaker, the Department of Health and Emergency Services proposes the following measures:

LONG TERM

1. Decentralize funding and rein fencing of revenue collected in the Hospitals to be ploughed back to the same facilities.
2. Have a clear hospital and departmental service delivery charters.
3. Employ more staff.
4. Find a formula to clear pending bills.
5. There is a lot of waste taking up a lot of space, have a plan for disposal.
6. NHIF total reimbursements against claims within 21 days as per guidelines.

SHORT TERM

- 1) Have a functional hospital board.
- 2) Reinforce quarterly hospital report reforms.
- 3) Have clear hospital and departmental service delivery charters.
- 4) Have a clear chain of command.
- 5) Promote, re-designate workers, motivate them, and allow for training.
- 6) Have a functional customer care desk, four functional suggestion boxes and telephone line.
- 7) Improve on hospital signage especially with each department.
- 8) Disable friendly facility - have ramps and toilets for the PWDs.
- 9) Repair hospital switch board for prompt communication.
- 10) Efficient record and information system.
- 11) Improve on performance appraisal system.

12) Improve welfare of hospital administrators.

Hon. Speaker, the Committee presents this as a preliminary report pursuant to Standing Order 41(3) and undertakes to conduct a site visit to the facility and present a comprehensive report to this House. Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Vincent. May I now call upon Hon. Dickson Maundu to state whether the response was satisfactory?

Hon. Dickson Maundu (Kangundo Central, MCCP): Thank you, Madam Speaker. I want to take this opportunity to thank the Chairman, Health committee and the entire committee for the work that they have done. I am happy at least they have come up with something that will be tangible to the hospital. This facility serves people from Ruai, Mwala, Matungulu and all those areas and therefore it is very important that we have adequate staff.

I want to add, Hon. Speaker, with your permission as a short term remedy that it should have a minimum time not just short term. They should tell us the meaning of short term; two or three months or something like that. Otherwise, Madam Speaker, I want to thank once again the Chair. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. So I take it that the response was satisfactory say for the time frame that was not given.

Hon. Dickson Maundu (Kangundo Central, MCCP): Yes, Madam Speaker.

Hon. Speaker: Thank you very much.

Hon. Vincent Maundu (Upper Kaewa/Iveti, WDM-K): Madam Speaker, just to give a clearance, as we had indicated that this is a preliminary report; we will table a more comprehensive report. I suppose even the timelines will also be addresses during that time. Thank you.

Hon. Speaker: Thank you. It is clarified that this is purely an interim report and there will be a comprehensive report to come. Thank you, Members.

MOTION

APPROVAL OF REPORT ON FINANCIAL STATEMENTS OF MWALA
WATER COMPANY FOR THE YEAR ENDED 30TH JUNE, 2018

Hon. Speaker: May I call upon Hon. Philip Ndolo to proceed and move the motion.

Hon. Philip Ndolo (Mitaboni, UDA): Thank you, Madam Speaker.

Hon. Speaker, that aware that Article 229 (5) of the Constitution provides that, the Auditor-General may audit and report on the accounts of any entity that is funded from public funds;

Further aware that, Article 229 (7) of the Constitution that provides that Audit Reports shall be submitted to Parliament or the relevant County Assembly; Cognizant that the Audit report on Financial Statements of Mwala Water and Sewerage Company for the year ended 30 June 2018 was received in the Assembly pursuant to Article 229(7) of the Constitution;

Further aware that the report was committed to the Public Accounts and Investments Committee pursuant to Standing Order 185(2)(b) and (c) which states that; “the Public Accounts and Investments Committee shall be responsible for examination of reports, accounts and workings of the County Public Investments and whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices”;

Aware that the Committee after receipt of the report conducted several meetings and consequently compiled a report;

Hon. Speaker, I wish to move the Motion that this House approves the Report of Public Accounts and Investments Committee on Financial Statements of Mwala Water and Sewerage Company for the year ended 30th June, 2018.

Let me call Hon. Douglas to second this motion. Thank you, Madam Speaker.

Hon. Speaker: Hon. Douglas proceed.

Hon. Douglas Musyoka (Masii, MCCP) seconded.

Hon. Speaker: Thank you, Hon. Douglas.

(Question proposed)

I am aware Members, you have had the report with you, and you have gone through it and seen the observations and the recommendations by the committee. I now, on that basis, invite you to debate the motion. The floor is yours Members. Do we have contributions from the Members? Mheshimiwa Muoki.

Hon. Muoki Musila (Ndithini, WDM-K): Thank you, Madam Speaker. I want to contribute in support of the report that I participated in the committee of PAIC when we went through the report of Mwala Water Company. I am saying that because as we were discussing, we found the queries that are being asked by the Auditor on why undisclosed material, uncertainty to a going concern, inaccurate financial statements, cooperate governance and all that, I am saying that, why our companies are failing and particularly Mwala Water Company is because of these inadequacies that are found in the human capital that we have in the company.

We are finding that when they are giving inadequate responses, they are asked these questions very early in advance but they take so long to respond. Some of the things are very obvious; is it the incompetence of the people who are mandated to run these companies and when we conclude on all what is happening, we are saying that this report is important to be adopted by this House so that at least we can find a way of moving forward with it. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. More contributions? I now put the question; sorry I now invite the mover to reply before I put the question.

Hon. Philip Ndolo (Mitaboni, UDA): Thank you, Madam Speaker. Madam Speaker, as you understand, the issue of water is very crucial commodity in our area. These companies serve the entire Mwala and the residents of Mwala need water and as you have heard, most of the amount is being spent on electricity bills which is costing them and also the water they are selling to the people of Mwala is being controlled by tariffs such that you cannot sell this water at a certain amount.

If this House adopts this report and gives this company money to be funded so that they can pay for the electricity bill it will be very important and the people of Mwala will get water and also the people of Machakos. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: We have no more business in the House. The House adjourns to Wednesday 7th December, 2022 at 10.00 a.m. Thank you, Members.

The House rose at 3.25 p.m.