

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 8th August, 2023

The House met at 10.58 a.m.

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

PRAYERS

COMMUNICATIONS FROM THE CHAIR
FLAGGING OF CASA GAMES

Hon. Members, the County Assemblies Sports Association (CASA), you recall that I did communicate that the Fourth Edition of CASA games will be held Nakuru County from 19th to 27th August, 2023. In addition, I requested you to avail yourselves for training sessions from Monday to Thursday starting from 3.30 p.m. I hereby invite you to flagging-off exercise of the participants to the CASA games which will take place tomorrow 9th August, 2023 after morning plenary at the parking lot.

VISITING DELEGATION FROM ST. BAKHITA
KYUA SECONDARY SCHOOL, KATANGI WARD

Hon. Members, I wish to acknowledge the following visitors in the public gallery; teachers and students of St. Bakhita Kyua Secondary School from Katangi Ward represented here in the Assembly by Hon. Felix Ngui.

(Applause)

VISITING DELEGATION FROM MASWII
EDUCATIONAL CENTRE, TALA WARD

Teachers and pupils of Maswii Educational Centre from Tala Ward represented here in the Assembly by Hon. Jackson Ndaka.

(Applause)

The learners have visited the Assembly on a learning exercise. I take this opportunity to welcome the Teachers and the learners of the two schools in the Assembly. The Hon. Members of the two wards will get an opportunity to welcome them when they will be contributing to the business of the day. Thank you, Hon. Members.

Before I proceed to the next order, I want to take this opportunity to officially welcome you teachers, pupils and students from those two schools to the chamber. This is the chamber for the Assembly of Machakos and we know you are here on a learning exercise and we would like you to be part of this sitting and learn a lot. Welcome, feel at home and make sure before you leave here you have learned one or two things. We will have more discussions later. Thank you.

PAPERS LAID

QUARTERLY REPORTS AND FINANCIAL STATEMENTS FOR HEALTH FACILITIES FOR THE PERIOD ENDED JUNE, 2023

Hon. Speaker: May I invite Hon. Nicholas Nzioka to lay several Papers.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I wish to the following Papers on the Table of the Assembly today Tuesday, 8th August 2023:

- i. Kathiani Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- ii. Mutituni Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- iii. Ndithini Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- iv. Athi River Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- v. Kalama Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- vi. Mwala Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- vii. Kangundo Level 4 Hospital quarterly Report and financial statements for the period ended June, 2023.
- viii. Machakos Level 5 Hospital quarterly Report and financial statements for the period ended June, 2023.

(The Papers were laid on the Table)

Hon. Speaker: Thank you, Hon. Member. The above Papers are committed to the Health and Emergency Services committee. Thank you.

STATEMENT

BUSINESS FOR THE HOUSE FROM 8TH AND 9TH AUGUST, 2023

Hon. Speaker: May I invite Hon. Nicholas Nzioka and Hon. Fredrick Kitetu, in that order, to make Statements.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. Hon. Speaker, the House Business Committee met on Monday, 7th August, 2023 to prioritize business for the House as forwarded by Committees and Hon. Members pursuant to the provisions of the Standing Order 151(6)(d). The Committee balloted business as follows:

Tuesday, 8th August, 2023

Morning at 10.00 a.m.

- (a) Statement response on the status of tree cover and climate adaptation in the County by Hon. Fredrick Kitetu
- (b) Report of the Auditor General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June, 2019 by Hon. Philip Ndolo

Afternoon at 2.30 p.m.

- (a) Statement on conservation of Kithatani, Ngulini and Kanzokea forests in Kangundo Central Ward by Hon. Dickson Maundu
- (b) Motion on tree planting by Hon. Catherine Kyee:

Wednesday, 9th August, 2023

Morning at 10.00 a.m.

- (a) Report of the Auditor General on Mavoko Water and Sewerage Company for the year ended 30th June, 2020 by Hon. Philip Ndolo;
- (b) Adjournment of the House and alteration of the calendar by Hon. Nicholas Nzioka.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. There is some noise coming from somewhere; Sergeant at Arms make sure it does not happen. Hon. Kitetu, proceed.

STATEMENT REPLY

TREE COVER AND CLIMATE ADAPTATION IN THE COUNTY

Hon. Fredrick Muia (Ikombe, WDM-K): Thank you, Madam Speaker. Hon. Speaker, on 16th December, 2022, a statement was sought by Hon. Mercy Njagi on the following:

1. What measures has the County Government taken to increase tree cover within the County?
2. What structured measures have been initiated to provide for climate adaptation in the County?

Hon. Speaker, the sought statement was conveyed to the Department of Water, Irrigation, Environment and Climate Change vide a letter REF: MKSCA/PCS/CMM/ELENRV/VOL.4/01 and the department responded to the aforementioned statement through a letter dated 29th May, 2023 as follows:

Machakos county forest cover currently stands at 2.9 per cent which is quite low compared to the national forest cover target of 10 per cent. The tree cover is 6.3 per cent which is comparable to the current national cover of 8.0 per cent. Machakos County has a total land surface of 2,516.19 ha covered by forests. The remaining county land is largely semi-arid but suitable for tree growing.

Most of the deforestation is due to encroachment, illegal logging, grazing, and forest fires and also from the effects of climate change such as droughts and poor weather patterns. On the private farm deforestation is majorly contributed by uncontrolled logging and increased land demand for settlement as a result of rise in population and increased demand on firewood.

To improve both forest and tree cover the Machakos county government has planned for the following measures:

1. Through department of Environment and Natural Resources, a budget of Ksh. 4,000,000 has been set aside for tree planting in the FY 2023/2024.
2. To contact awareness creation through institutions and public *barazas*.
3. To adopt forest conservation, where indigenous and drought resistance tree varieties will be grown as opposed to plantation forestry which relies on exotic tree varieties which are less drought resistance and un able to overcome harsh weather conditions due to climate change.
4. Partner with institutions such as school, collages, churches, hospitals with space and reliable water supply for tree growing.
5. Partner with manufacturers and industries to undertake tree planting as part of CSR.
6. Support existing tree nurseries through capacity building and with provision of water tanks to increase tree seedlings production.
7. To sink additional boreholes in our forest lands to aid in tree growing.
8. Encourage agroforestry to improve tree cover on farm lands.
9. Capacity building on access to clean cook stoves for improved efficiency and reduced emission hence reduced firewood consumption.
10. Capacity build on development of woodlots for supply of fire wood and charcoal.
11. To improve surveillance of forestry land by scaling up the number of forest guards.
12. Capacity building and empowerment of Community Forest Associations (CFAs).
13. Improve access to forestry lands to ensure quick responses to forest fires.
14. Beef up surveillance on regulations on tree cutting and harvesting on public and private farms.
15. Embark on rehabilitation of fragile eco systems through tree planting, weir construction and laying gabions.
16. To survey and demarcate all the forestry lands in order to curb encroachment.
17. Undertake fencing of the forestry land as a long term and permanent solution to illegal logging and grazing.
18. Development of Machakos county tree planting policy, Act and regulations.
19. In liaison with Israel Government to adopt on the latest tree planting technology.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Member. Before I call Hon. Mercy to inform the House whether she is satisfied with the response, I will invite Members to make comments. This being a period where we are experiencing climate change, we need to put a lot of emphasis on. Hon. Ndawa.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. If you allow me, I will start by welcoming the students present today from the two schools; Tala and Katangi. Katangi is in Yatta Sub-County where I come from so I can say it is from my area and the other

school from Tala, I have a lot interest in Matungulu Sub-County and for that matter, Tala Ward. So, they are also---

Hon. Speaker: Disclose the interests.

Hon. Mbili Ndawa (Matuu, MCCC): I have property there and many relatives in that area. I want to welcome them and say that I can see future legislators seated in that gallery I can see a Speaker, a Clerk, a Governor, MCA, engineers and other officers. So welcome.

Hon. Speaker, coming to the matter before the House, I want to start by congratulating my dear sister Hon. Mercy Njagi for this Statement. I want to applaud the protégés and to explain what a protégé; it is- somebody who is new in something. The Members who are elected for the first time I want to say *heko* them because they are doing a commendable job. We can see them doing what they are supposed to do. The opposite of a protégé is a mentor; we have mentored you and you are no longer protégés you have now been promoted to mentors. You are doing a good job.

Hon. Speaker, the response is okay but I have some reservations on the issue; issue number one is timeframe. The Statement was sought in December last year and the response was brought before the committee on 29th May this year and today is when we are getting the report. Those are nine months. If we taking too long, the meaning of the Statement can be overtaken by events. When Madam Njagi was seeking this Statement, the rains were on and if we had received the response during that time, we would have done something.

Again, the other bit I have seen from the response is that from the person responding is telling us that he/she has set about Ksh. 4 million for tree planting. The letter is dated 25th May and the budget was approved 20th June, 2023 so at the time of writing that letter, the officer was not sure whether the budget will be approved as requested. It is good when we are getting responses; we need them in the true position.

Again, Hon. Speaker, the departments are taking long to respond to Statements sought by Hon. Members and I am requesting when the office of the Clerk is writing for responses; if they are writing to the Chief Officer in charge of that department, they should also copy the County Secretary so that if the CO delays, he or she can be discussed at the cabinet level. That is how we can assist our Governor to ensure that work is done within the stipulated time and no delays in the offices.

Maybe, there are quarterly reports that are supposed to be brought here; the law is very clear. The House is not supposed to write requesting for those quarterly reports' it is mandatory and a constitutional requirement that they must be submitted. I have noted that letters emanate from this Assembly, requesting for those quarterly reports to be submitted and that is not how things are supposed to be done.

So, Hon. Speaker, wise men say, a change needed in a grandson has to begin with the grandfather and grandmother coming downwards. If us as the custodians of the laws of this county we cannot correct this, it means other people will be reluctant. As an Assembly we also need to ensure we do things as they are stipulated and envisaged in the constitution. I agree with the report and I have seen Ksh. 4 million for tree planting and bullet 15 saying that they are going to fence but they are not clear when the fencing will be done because we did not set a budget for that. So, in the other financial year, I urge them to request for funds to do fencing. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Member. Before I invite the rest of the Members, I want to comment on the issue of delays when we seek Statements and information from the relevant departments. We have laid down procedures such that when we seek for statements and they delay, we have remedies, don't we? We know what to do because that is the work of this House to oversight.

If we seek Statements which we want to clarify information and we want to get response on different issues and they are not forthcoming, there are laid down procedures on how to get that information within the right time. So, let us not complain, let us do the work that we came to do here. Hon. Felix Ngui, Katangi ward 001.

Hon. Felix Ngui (Katangi, WDM-K): Thank you, Madam Speaker, for this opportunity. If you allow me, I will start by appreciating you for giving me an opportunity to invite my school. In fact, this is my closest neighbouring school when I am at home I can hear them while they are being taught in class. I am proud of them and I want to welcome them to Machakos County Assembly and hope that they are going to learn about Assemblies, county governments being one of the key issues in our constitution.

Secondly, Madam Speaker, I want to appreciate your office together with the management because of the efforts you are making to make sure this House goes paperless. In fact, today I am not seeing so many Papers on the Table and thank you for that effort.

Coming to the Statement, I want to appreciate Mheshimiwa Mercy Njagi for seeking this Statement during a time when climate change is a pertinent issue within our County and our nation. I will be dealing with two or three issues. First, I was privileged to be a Member in the First Assembly of Machakos, 2013 to 2017 and tree planting has been an issue within our County. In fact, during that time we passed so many budgets here with a lot of money for tree planting and if you go around today you might ask yourself, where these trees have been planted for the last 10 years.

So to the Chairman of Environment and Climate Change Committee, it is a challenge to you that now that the County government of Machakos through the department of Water, is saying that they have set aside Ksh. 4 million which to me seems to be very little for the whole county but again it is very important that the committee on Climate Change can actually do its work to oversight and make sure that this Ksh. 4 million that has been set aside for tree planting actually these trees are planted on the ground. I think that this is very important.

Secondly, it is important to note that when we talk about tree planting we must also talk about water. I have heard through the chairs response that the government through the department of Water it is going to partner with institutions like schools and churches. First of all, you must ask yourself, if you partner with a school, does the school have water. For example, if you partner with Kyua Secondary school which is in the gallery today, there is no water in the school so giving them trees to plant, that means that it is wastage because they will dry up in the next three months. That is a critical issue that ought to be looked into as we discuss on tree planting.

Lastly, I have also heard in the Statement that the government is planning to do boreholes in the forests and my opinion would be different because if you look at the underground water in the reports, underground water is slowly going to dry up so we want to encourage the government to consider doing earth dams. For example, if you go to Katangi there was a famous dam done during the colonial times called Mekilingi dam; there was another one called Kakuyuni dam in Katangi location and these dams used to serve the whole of Katangi during that

time. As we talk today, they have dried and have no water and we used to have tree nurseries on those earth dams. So my suggestion is that the government considers doing more earth dams because it is the only way we can have sustainable water for our people.

So, Madam Speaker, with those few remarks thank you so much and I want to hope that the department is going to do what is needed to make sure that we overcome the challenges of climate change within our county. Thank you so much.

Hon. Speaker: Thank you Hon. Member, Hon. Mary Kituku then Hon. Hellen Ndeti.

Hon. Mary Kituku (Nominated, UDA): Thank you Hon. Speaker for catching my eye. I would like to applaud Hon. Njagi for coming up with such a huge Statement for our County and country in seeking to replenish our ecosystem. I have gone through the measures that that the County Executive has come up with a plan to salvage the same and it is a good measure. However, I do have a recommendation or a question to put across. Each and every time we as Hon. Members are invited to any function, we tend to plant to plant trees but we never take care of them ourselves. Maybe we will go back to the same event after three years which we will ask, where did our trees go.

We did not find out if there was any irrigation system to salvage the same; we keep on planting many trees but we do not take care of them. Like yesterday, we had gone for the games at the Kenyatta Stadium with Hon. Loyd and during our walk, we noticed that H.E had planted so many trees, some were dry and some had been cut off which brought my question today; how about each we adopt a tree that had been pre-planted by any other person.

We walk along and see them but we never have any one or any committee to take care of them so I would urge the Environment Committee which I am part of to come up with a motion on how we can adopt a tree. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Mary and I think you can be the mover of that motion going forward. Hon. Ndeti.

Hon. Hellen Ndeti (Nominated, WDM-K): Thank you, Hon. Speaker. I stand to congratulate Madam Njagi; I think she is in line with the thinking of everybody in the entire world not just Kenya or Machakos County because change is affecting the whole world but I wanted to comment on the tree planting. I think there is need for both the National Government and the County Government to come up with a policy on tree planting because we tend to just talk about tree planting and what Mheshimiwa Mary has said, planting trees is one thing but nurturing that tree to grow is another thing.

Secondly, last Assembly I was in the Environment Committee and we took a benchmarking exercise in Malaysia and we learned things that we came back in the same House, wrote a report but it seems like these reports are written but never implemented. In Malaysia we learned that their place rains throughout because their policy is that you can never bring a foreign species of a tree in their country. There are trees that have always grown in their country that do better but if you look in our country we have brought even blue gum trees that are depleting the water in our soils.

So we need to come up with a policy that is going to ensure that whatever trees we plant are trees that are original in our country and they will be able to sustain or grow even in such harsh climatic conditions.

Secondly, I think as a county we need to come up with a very clear policy on water. We cannot just be talking about digging of boreholes and not knowing that these boreholes are going to be sustainable. Our colleague also said that these the water table is running low and as a result we are going to find ourselves with no water. It is high time as a county we start thinking of new technologies on coming up with water solutions like I hear like this month of June to July and August we had very cloudy atmosphere so we could have been tapping water from clouds that can be stored for future use. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Hon. Members, it is our duty once we go for benchmarking and come back with a report to ensure that it is actually implemented because actually it is our work. It is still our work. Hon. Muoki.

Hon. Muoki Musila (Ndithini, WDM-K): Thank you, Hon. Speaker. I wanted to commend the Statement seeker on the forest cover in Machakos. I have also seen the recommendations from the department on what they are going to do setting aside Ks. 4 million to mitigate afforestation in the county. As my colleague Hon. Ndawa said, the amount is a bit on the lower side; if they could think of bigger figures to take care of that again. Hon. Felix also has mentioned about the depleting underground water which I totally agree with.

Why we are finding our County or even the world having this problem of forestation is because we do not have ground water. Instead of retaining the rain water we are going to deplete the ground water and once we do not have ground water then the very trees that we had planted are going to dry. If we can think of other sources of water as the water pans, the dams and the like, would be doing a lot better.

Again, they have talked about partnering with institutions to do more tree planting but I say charity begins at home. If you look at our County Machakos, the inhabitants of County of Machakos, we are very many and almost everyone has at least an acre of land; if we started planting trees ourselves before we went to the institutions because when I am taking care of my own tree may be I would be more responsive to it than when it is institutionalized. So I would think the committee on environment, if they can think of ways of disseminating the information to the individual inhabitants of Machakos County, they find ways of encouraging us through incentives like first of all give us that water then tell me plant a tree because I have water I am going to plant one.

In my family we are going to plant every other year we will be planting and as such we will be increasing the ground cover of trees. If you come to Masinga where I come from, those who are along river Tana, we have that rapport with TARDA and Kengen and when they give us trees and we start planning on our own land but we do not have the water or the people are given the trees but do not have water so what I am trying to say is that even before we think of the trees let us also think of water first because without the water then the trees will dry and that one has been attested by Hon. Mary what she found at the Centre of Machakos. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Member. Very important points there. Hon. Mulinge, Kiima Kimwe 001.

Hon. Joseph Mulinge (Muvuti/Kiima Kimwe, MCCC): Thank you, Hon. Speaker. First I would like to thank Hon. Njagi for coming with this good Statement at this moment we are addressing the issues of climate change. Mine, I need to urge the County Government through the concerned department to take this matter seriously because at the moment in our globe we are talking about climate change and everyone knows that because of deforestation the effects of climate change are emanating from people cutting trees without planting trees.

The afforestation has got very many advantages. For instance, regulating temperatures, acting as stores of dangerous gases like carbon that destroys ozone layer. A again Madam Speaker, the report the committee has given us shows that they seem to lack the interest of protecting the forest because if you look on the budget they have allocated of Ksh. 4 million, if you divide by 40 wards, it is equivalent to Ksh. 100,000. If that Ksh. 100,000 is going to address the problem in my ward that is Muvuti/Kiima Kimwe ward with seven sub-locations means that every sub-location is going to get Ksh. 14,000. With Ksh. 14,000 there is nothing. Thank you.

(Applause)

Hon. Speaker: Thank you, Hon. Mulinge. Very important there. Hon. Mutie then Hon. Majority Leader.

Hon. Vincent Mutie (Upper Kaewa/Iveti, WDM-K): Thank you, Madam Speaker, for giving me time to contribute. I must also identify myself with the need to check the effects of climate change. Of concern to me in the response was question No. 2 about climate adaptation in the county. The department seems to have emphasized on tree planting and neglecting that part of adaptation in terms of what measures the department intends to take to cushion the people against the effects of climate change as at now.

When we say that we will plant more trees by the time we get the results from the trees that have been planted our people will still be suffering. The department did not provide stop-gap measures to address those effects as we wait for those trees to grow.

Also the response seems to give a general approach in terms of planting of trees because as my colleague has alluded not every tree is favorable for our areas. For instance, I come from the hilly areas and one challenge that we are facing now is the menace of the eucalyptus or the blue gum tree; what it does it lowers the water table so you realize that as you have more trees we must be choosy of which type of trees. The department seems not to have attended to that concern and to create awareness on the types of trees which will not affect the environment.

One thing which is also not out in the response is how to preserve our rivers; as we have now we have effluence into the rivers and sewerage of course which has affected most of our rivers and this of course goes a long way in affecting climate.

So the other thing that we might need clarification on is the level of synergizing between the National Government and the County Government knowing that we have some forests under the National Government and the County Government. We might need to understand the level of collaboration between the National Government and the local Government in regard to preserving the forests.

Finally, I need to congratulate my colleague for raising this important Statement. I support the initiative and if the department would act on what they have stated and most

importantly to put deed in to word so that we would not just have a Statement reply that is good for the reading and action does not follow. We would need concerted efforts between all the players. I would also urge the department to see how it can form collaboration between stakeholders including the Assembly.

The elected Members, the Members who represent different groups in the Assembly, we all know that every sector is affected by climate change; our women are affected because they have to fetch water from a far distance, our farmers, children are affected also so if we could have a collaborated approach I believe we would tackle the challenge and once again congratulations my colleague Mercy Njagi for raising such an important Statement. Thank you.

Hon. Speaker: Thank you very much, Hon. Mutie. I hope the committee concerned is actually taking note of those concerns that have not been addressed in the report so that we can be able to get them they are important. Hon. Leader of Majority.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. First of all, I want to congratulate your Leadership in the Assembly for leading by example even though we will need some training on the use of this machines; this is just trying to mainstream and going paperless if all the institutions of this country can go paperless in all that they print would have significance increase in tree destruction so I want to congratulate you for that and also urge you going forward in our upcoming building, the new chamber, I would urge that we mainstream a lot of climate actions like we could choose to use solar power instead of the regular power.

We could also ensure that we have the water from the roof all of it being harvested instead of going into the streets and that is part of climate change mainstreaming. Thank you for leading us the right way.

I always find the term tree planting too defeatist because we are all even at our personal level trying to plant trees and we are very reactive to rain; when it rains I see people travelling with their cars, pickups with a lot of trees. I call it defeatist because we do not think what about when the rain stops, what happens with the trees that we have planted in hundreds or thousands. My idea of tree planting is first of all to look at how many can you sustain up to a certain level where they do not need rain.

What I do is I do not plant so many trees; I will not plant 100 or 200 trees but I would plant 20 or 30 and they will be taken by rain to a certain level when the rain stops they would survive and within a year I can tell you Madam Speaker, the trees are able to survive so tree planting itself is not the solution, I would urge we look at how many would survive after the strategies that we put into place.

Secondly, I allude to what Mheshimiwa Vincent has said that the whole idea of planting a tree or doing afforestation is to derive some value so what value are we telling our people are going to get by planting trees. A long time ago, people used to be given forest land where they could also do cultivation, although I do not remember what was the name of that programme; the *shamba* system where people would be encouraged to till in the forest but also plant a lot of trees, take them to a certain level, leave that piece of land, you get transferred to another piece of land that is bear in the forest because normally forest land is very fertile so you derive food from the forest as well as afforestation.

So until we acknowledge that a tree in itself you cannot wait for three years to get the value of the tree, you might die so we need in between planting and when you get value you need

to derive something else in between so one of the easiest is to plant trees that are very short span like fruit trees. A pawpaw will take two seasons or three seasons to get value so as you plant eucalyptus you could also add some pawpaws in between so that you derive quick value.

Lastly, I would urge all of us to take personal initiative. Madam Speaker, I was in your office two weeks ago reporting to you that through our foundation, a very popular foundation called Wa Ngondi Foundation has partnered with a group of women they call themselves One Love women group and I call them wonderful women. These are women who from time to time they assist and I stop there because of the children who are here; I have partnered with some wonderful women from the streets of Machakos, they have formed a group and through the initiative with the County Government and I have requested the department of water and the Governor and thankfully they have agreed to let us use Kaumbuthu dam. We have established a tree nursery; currently we have seed beds that are holding at least 100,000 seedlings that are going soon to be transplanted and these women *wanaweza funga duka ya usiku sacco wafungue mchana sacco*.

Hon. Mbili Ndawa (Matuu, MCCP): Point of Order, Hon. Speaker.

Hon. Speaker: You may have a seat; point of Order taken.

Hon. Mbili Ndawa (Matuu, MCCP): Hon. Speaker, I just request you to make a determination whether the Hon. Member is in order to mix languages. Hon. Speaker, our Standing Orders are very clear; if you start in English you conclude in English you do not have to mix so make a determination.

Hon. Speaker: Or better still translate.

(The conferencing delegate units went off)

We have a technical problem? I think it is now working, proceed Majority Leader.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I do not think it was a point of Order. Maybe it was point of information but a name will never change. My name is Nicholas Kitavi Nzioka that is the name I was given by my mother. I do not know who has the authority to change that.

So that particular group called their shop *usiku sacco*; this House does not have any authority to change the group's shop and they have decided, on their own, through this initiative that they are going to close the *usiku sacco* shop and open *mchana sacco* shop and so we do not need to interfere with their naming rights. It is within the law.

Hon. Speaker: If it is a name it is okay; proceed.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker.

Hon. Speaker: Thank you.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): So I think the most important thing with this initiative is that apart from tree planting and mainstreaming climate change action it is also going to change livelihoods of these women. I also want finally to thank Mheshimiwa Mercy Njagi; this is the global discussion that is going on everywhere. Tree planting, climate change so if we are doing this *na tuko online ata pengine* we could be the first Assembly which is doing this---

Hon. Mbili Ndawa (Matuu, MCCC): Point of information, Hon. Speaker.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I do not need any more information. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Thank you very much for making sure that you have improved lives and that you have made that particular move to make sure that you have improved other people's lives. Making a difference in one's life is important. Hon. Don.

Hon. Paul Wambua (Kibauni, PTP): Thank you, Madam Speaker. Madam Speaker, let me start by thanking our colleague Mheshimiwa Mercy Njagi for finding it appropriate to bring such a topic to be discussed in this Assembly. Madam Speaker in as much as we want to promote the planting of trees and enhancing our environment, as a House we need a Regulations to regulate the conservation of environment in totality starting with planting trees, their maintenance, conserving our rivers and all that. I will request the Committee on Environment to take charge and lead us in coming up with these Regulations.

Secondly, as Mheshimiwa wa Ngondi is saying planting of trees is good but the other day my father was telling me we should not be living like animals who depend on the environment for survival. If it does not rain they die, if it rains they survive. If they are caught by the lion they die. We need to start living as people who have brains and start using our resources to improve our lives.

For instance, Madam Speaker, most of the Wards in this County have big rivers that either touch the Wards or traverse through the Wards. Notably like Kibauni we have river Athi which passes on one side and river Thwake though it is seasonal but still provides water throughout the dry season to our people.

If we can use the resources that we have in form of water that runs through these rivers and support our people; when the Governor was campaigning, the slogan she was using was *chakula mezani pesa mfukoni*. We support groups just like Mheshimiwa Majority Leader is doing to plant trees then at the end of the day the County buys these trees and gives to schools, to individuals who want to plant trees. Mheshimiwa Speaker that was part of my campaign tool. That was one of my campaign points that we shall support groups that want to plant trees and buy the trees from them so that they earn an income.

We have started doing this; there is the locust project which is in my area and part of the advice that I am giving them is that we should start projects like tree planting and these trees that we are talking about must not be eucalyptus or the other *mzungu* trees. We can plant our indigenous trees like croton megalocarpus which is otherwise known as *kithulu*, *mwaa* (acacia) and others which can best survive in our areas.

Madam Speaker, today I was speaking to a group from my area which occupies part of Kibauni hill as their residence because the place is called Kivani which is in Ngungi sub-

location. Recently there were threats that they would be moved from the hill because there has been a lot of deforestation going on that hill. Madam Speaker today I was advising them that first of all the government has invested in its forest and secondly it has invested in the people that live there in the form of schools, roads, water and therefore no one will take them away from their residence but I was telling them we need to support this government in making sure that we improve tree cover because our rains depend on tree cover, environment, climate, everything depend on tree cover.

Madam Speaker I am in support of this initiative and as a House in every capacity that we hold we need to do this climate change initiatives not for ourselves but for our future generations. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member.

Hon. Mbili Ndawa (Matuu, MCCC): Point of Order Hon. Speaker.

Hon. Speaker: Yes Hon. Ndawa proceed.

PROCEDURAL MOTION EXTENSION OF SITTING TIME

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Hon. Speaker I am standing on Standing Order 27 on extension of time.

Hon. Speaker aware that Standing Order 27(2) provides that the Speaker shall interrupt business at 12.30 p.m. for the morning sitting;

Aware that Standing Order 27(3) provides that the House may resolve to extend its sitting time;

Aware that Standing Order 27(4) requires Motion to extend sitting time to be moved at least thirty minutes before the time appointed for adjournment;

Hon. Speaker, I beg to move the Motion that this House resolves to extend its sitting time until the Business in the Order paper is concluded.

Thank you, Hon. Speaker. I call upon Hon. Kitoo from Mitaboni to Second the Motion.

Hon. Philip Ndolo (Mitaboni, UDA) seconded.

Hon. Speaker: Thank you, Hon. Member.

(Question proposed)

(Question put and agreed to)

Let us proceed with Hon. Mbula contributing. After Mheshimiwa Mbula is done we will conclude this matter. We can have a further discussion in the afternoon because we have a similar Motion in the afternoon. Thank you, proceed.

Hon. Constance Mbula (Nominated, MCCC): Thank you, Hon. Speaker. First I want to congratulate Hon. Mercy for the statement. I think it is very wanting (??) and I want to say we have planted trees for a very long time, however the source of those tree to plant is water. I want

to say water is life even us without water we are not living. There is a time that National Government brought trees all over the place and we were called to pick. The chief would call you come and pick as many as you can plant.

I remember I picked 400 and 200 I gave them to few schools and 200 I planted somewhere near my home but to tell you the truth Hon. Members without water we are doing zero work; very few survived. What we can do is to get together and see the source of water whether as Hon. Nzioka says we can have those groups and give them tanks and they plant and they will make use of them.

As we speak for those who may not have, I have a very big nursery although water is a struggle, if you want trees I can give you and how come yes I have them in my farm a very big nursery. It is a continuous thing, I started this long time when the commissioner told me to that so that I can educate women as a Chairlady of Maendeleo ya Wanawake Organization and I have done that I give them through but water is a big problem.

Hon. Majority Leader, I want to say trees are trees and pawpaws are not trees so we cannot mix them those are fruit trees. However, they are also good to be done around the houses. When we are doing this we must know where to get water from because we may be doing just zero work. You plant 100 of them and by the end of the day when the rains go you get nothing. Water is a source of everything bottom line, Madam Speaker, is we know the source of water before we plant those trees. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mbula; very important point there. Water is very important when we are talking about tree planting. So we address the issue of water as well. May I now at this point call upon Hon. Mercy Njagi come forward and maybe tell us whether she is satisfied with the response given by Hon. Kitetu on climate change and tree planting.

Hon. Mercy Njagi (Nominated, MCCC): Thank you, Madam Speaker for the opportunity. I also want to thank Hon. Members for the very spirited discussion on this issue. It is very evident that it is a very important issue in our community and Madam Speaker I want to say before I confirm whether I am okay with the statement or not. I want to say that I requested for this statement after reading the forest service report for 2022 and I was concerned that Machakos County is part of the bottom five in terms of forest cover in the country.

We are talking about being behind Kilifi and I am in no way trying to say that I am comparing siblings but comparison can also be a learning point. Kitui has seven per cent forest cover, that is a County that is very well known for charcoal burning and illegal logging but they are still way ahead of us; us at two per cent and them at seven per cent so it is an issue of concern.

I also want to say that the time it took to get this response is eight months and the response that I got was in a future tense that they intend to do. At eight months, we should be talking about present continuous; we should be having parameters, we should be having measuring units to what they intended to do in December up to now. So nine months later we should be saying we have done this and this and I feel like they did not try.

Also I would like to say just as Hon. Mutie very well put it they did not tackle the second part of the issue on climate mitigation. They really focused on tree planting which as most of the Hon. Members have elucidated is been done but it is not successful. So what is the problem and what is causing this problem not to succeed.

As someone who has lived in Machakos for the last 15 years and been in government for 10 of those years, I want to say that we also did plant trees but I am also very honest to say that it was literally a planting but not the sustainability. I did not see it and I feel like this new government should be able to do that part in ensuring that these trees that they are planting now have to get to a place where they are sustainable by themselves just as the Majority Leader has said.

Madam Speaker, a lot of the *barazas* and the sensitization that are been done in the community are just one day or two day events. They come, pitch tents as a department, they give Wananchi trees, they plant, they take photos and they go. Madam Speaker, there has to be a sensitization program where this department realizes that they must give the program to the citizens so that the citizens own these programs. There is no citizen who will not understand that if I have a big forest near me, I will get good rainfall, more rainfall, better air and everything.

It has to be a program that trickles down to them so that they understand the importance of this tree planting. They have to understand and own it so that when it is drought time and I am washing a *sufuria* in my kitchen and I have that extra water that is wasted I know I can get out and collect it and pour on the trees around me. They will benefit me in the long run. It has to be a program that is owned by the community and that is something that is this department must commit to.

Madam Speaker, the measures that have been given sound very good on paper, very very good but they are also very ambiguous. Saying that there is a collaboration with the Israeli government on issues is very vague because what does that mean? They could elucidate more and they could explain more because we want to understand not that we hear County money has been spent here so we want to understand exactly what is going on and the measures they kind of non-committal to this quest. The answers sound very academic and they could do better.

(Applause)

In conclusion, these are 40 Wards and if the department is committed to actually fixing the forest cover from 2.9 percent to 10 percent, they could actually use the Wards. As a baseline for this kind of program so that Waheshimiwa also participate and be part of this program because the Waheshimiwa are very close to the people and they are able to articulate the importance of this *vis-a-vis* department employees who sit in offices and show up to the villages and Wards during events and the national tree planting days only.

To conclude, Madam Speaker, I feel like the department of water, sanitation, environment and climate change could do better with the response. I challenge the Committee on Environment to demand for a better response especially in terms of present continuity of this program and forest cover program. Thank you.

Hon. Speaker: Thank you, Hon. Njagi. Very important conclusion there.

Hon. Mbili Ndawa (Matuu, MCCP): Point of concern, Hon. Speaker.

Hon. Speaker: Sorry.

Hon. Mbili Ndawa (Matuu, MCCP): The seeker of the Motion is not clear. She was supposed to say whether she is satisfied or not satisfied.

Hon. Speaker: Actually what I have picked is that she is not satisfied.

Hon. Mbili Ndawa (Matuu, MCCC): Let it be captured.

Hon. Speaker: It does not have to be said in many words it can come out.

Hon. Mbili Ndawa (Matuu, MCCC): She can use just a simple word and clear everything. The HANSARD is capturing and tomorrow we may start asking ourselves; was she satisfied or not satisfied. It is just a simple word; I was satisfied or I was not satisfied.

Hon. Speaker: Hon. Mercy Njagi.

Hon. Mercy Njagi (Nominated, MCCC): Thank you, Hon. Speaker. I keep learning from my seniors. I am not satisfied with the response.

(Applause)

Hon. Speaker: Thank you, Hon. Njagi. The Committee on Environment will go back to the drawing board, get more satisfactory response and bring the report to the House. How much time do we give them this time? I need your guidance. Table Clerks; The Chair, how much time do you want us to give you this time?

Hon. Mbili Ndawa (Matuu, MCCC): Madam Speaker, before the Chair because when the Chair speaks, the Members may not be able to speak. I am a Member of that Committee and I feel as we seek for response from the department we should also be able to provide solutions. I am requesting as we assign the Committee to come up with the response, I would propose that the Committee seat with the department and if possible invite all the Members in a retreat to find out solutions to this matter. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Member. Hon. Kitetu, proceed.

Hon. Fredrick Muia (Ikombe, WDM-K): Thank you, Madam Speaker. I am the Chairperson of Environment Committee. First I must also thank the Hon. Members for the brainy contribution that they have made towards the Statement. That tells me that great minds do not move together but do meet at a common venue of reasoning. I think we have reasoned together and having being given ample time of almost two months, I think we will come up with a better report. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Therefore you are given two months to bring a better report to the House with satisfactory answers. I am sure you have already picked a lot of concerns from Members throughout the debate and you will be able to fix them. Thank you.

MOTION

REPORT OF AUDITOR GENERAL ON MACHAKOS COUNTY ASSEMBLY

CAR LOAN SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2019

Hon. Speaker: May I at this point invite Hon. Philip Ndolo, Chairperson public accounts and investment committee to come forward and move the motion.

Hon. Philip Ndolo (Mitaboni, UDA): Thank you, Madam Speaker. Allow me to invite our visitors today and tell them if they want to achieve their dreams they have to work hard.

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 states that Audit Reports shall be submitted to Parliament or the relevant County Assembly;

Cognizant that the report of Auditor General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June, 2019 was received in the Assembly in February 2022;

Further aware that the report was committed to the Committee of Public Accounts and Investments pursuant to Standing Order 185(2)(b) and (c) that 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 with the Accounting Officer of the fund together with officers from the office of the Auditor General and subsequently compiled a report;

Hon. Speaker, I wish to move the Motion THAT this House discusses and approves the report of Auditor General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June, 2019.

Allow me to call my able vice chair Hon. Ruth Wanjiru to second.

Hon. Speaker: Thank you, Hon. Member. Hon. Ruth Wanjiru.

Hon. Ruth Kamau (Nominated, CCU): Thank you, Madam Speaker. I rise to second that it is prudent that we discuss this report so that as we discuss we are going to come up with solutions of problems that are bedeviling us even in the current Assembly concerning the same scheme. I second. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. I now propose the question.

(Question proposed)

Before I proceed to invite Members to debate this motion I want to invite the mover of the motion to highlight the said report. Proceed, Hon. Ndolo.

Hon. Philip Ndolo (Mitaboni, UDA): Thank you again, Madam Speaker. Report of the Auditor General---

Hon. Speaker: Maybe we can have guidance which way do you want....you can have executive summary.

Hon. Philip Ndolo (Mitaboni, UDA): I will have some selected parts of the report. I will read the queries and observations.

Hon. Speaker: I am saying you can have the executive summary perhaps go to the background information, queries...it is like reading the entire. Proceed.

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

EXECUTIVE SUMMARY

The Audit report on the Financial Statements of County Assembly of Machakos Housing Scheme Fund for the year ended 30 June 2019 was received in the Assembly in February 2022 pursuant to Article 229(7) of the Constitution. On receipt of the audit report, it was committed to Public Accounts and Investments Committee pursuant to Standing Order 185(2)(b) and (c) and the report is an adverse opinion.

The Committee on Public Accounts while exercising its mandate as provided in Standing Order 185 invited the Accounting Officer and conducted interrogation on the audit report on 23rd February 2023 and this is pursuant to the provisions of Article 226(2) of the Constitution.

Hon. Speaker, the key queries raised by the Auditor include misrepresentation of financial statements, inaccuracies in the trial balance, inconsistencies in the final statements, unexplained transfers to reserve and default account, issues with administrative expenses and matters of unlawful state in establishment of Assembly funds.

The Committee after scrutinizing the queries and responses provided was able to draw key observations such as failure to comply with provisions of Section 9 of the Public Audit Act, 2015 on disclosure of information and provision of right content in financial statements, disregard of auditors advisory in both the management letter and draft report, double security of the loans among other observations.

In the report several recommendations were made to address the above observations such strict adherence to the provisions of Section 9 of the Public Audit Act 2015, re-checking of financial statements to avoid errors and inaccuracies and amendment of the MoU with the SBM Bank among other recommendations.

Background information and basis for adverse opinion

The Audit report on the Financial Statements of County Assembly of Machakos Car loan Scheme Fund for the year ended 30th June, 2019 was received in the Assembly in February, 2022 pursuant to Article 229(7) of the Constitution that states that Audit Reports shall be submitted to Parliament or the relevant County Assembly.

It is good to note that while observing the Constitutional requirements, this report should have been received in the Assembly latest by end of January, 2020 hence the report was late by two (2) years. This is in contravention of Section 48(1) of the Public Audit Act 2015 that requires the Auditor General to audit and report on accounts audited six (6) months after the end of the fiscal year in question.

Further, it is important however to note that 2022 was a year of Government transition and political parties were busy undertaking campaigns until the general election time which was done in August 2022. This is therefore to confirm that the report could not be processed since the Assembly was still in the process of constituting committees during the second quarter of the financial year 2021/2022. This explains well why the report was acted upon by the committee during the year of receipt.

On receipt of the audit report, it was committed to Public Accounts and Investments committee pursuant to Standing Order 185(2(b) and (c) and the report is an adverse opinion. This means the financial Statements do not present fairly in all material aspects the financial position of County Assembly of Machakos for the year ended 30th June, 2019 and of its performance and its cash standards and do not comply with the Public Finance Management Act, 2012 and the County Governments Act, 2012.

Further, the Committee on Public Accounts while exercising its mandate as provided in Standing Order 185 invited the Accounting Officer and conducted interrogation on the audit report on 23rd February, 2023. This is as per the provisions of Article 226(2) of the Constitution that provides that the Accounting Officer of a County public entity is accountable to the County Assembly for its financial management.

Merger of Machakos Assembly Car Loan and Mortgage Scheme Fund

The Assembly has now merged the two; Mortgage and Car Loan Schemes.

COMMITTEE GENERAL OBSERVATIONS

In addition to the specific observations outlined under every query, the Committee makes the following general observations:

1. Failure to comply with the provisions of Section 9 of the Public Audit Act 2015 on disclosure of information, reports and books to Auditors. This was noted from the queries on unsupported bank balances, inaccuracies in the statements; on-disclosure of loan advanced and unsupported revolving fund.
2. The matter on inaccuracies in the financial statements came out clearly specifically on interest on income, other income, administrative expenses and cash and cash equivalents. This was one of the key contributors to the adverse opinion of the report implying that the financial statements were not keenly rechecked after preparation.
3. The MoU signed with Chase Bank and SBM indicates that the Assembly deposited a seed capital of Ksh. 120 Million which is held in lien by the bank. The bank lends its own money and charges interest at 3 per cent administration fee with a requirement of security of pay slips, or title deeds when in actual sense the money held in lien is the security. Therefore this amounts to double security.

COMMITTEE GENERAL RECOMMENDATIONS

Hon. Speaker based on the specific observations under every query and the general observations stated up here, this committee recommends as follows:

1. Pursuant to Section 9(1)(e) of the Public audit Act 2015, the County Assembly should for the purpose of future reports avail to the Auditors all information, records, books at the time they are in the Assembly for the audit exercise to avoid unnecessary issues from appearing as audit queries.

2. Pursuant to Section 47(2) of the Public Audit Act, 2015, the financial statements prepared by the Assembly should contain the right content. This is because the queries on inconsistencies and inaccuracies in the financial statements introduced unrequired information in the statements that were presented to the Auditors.
3. The Assembly should review the MoU currently under use on specific matters relating to double security of loan, bank lending its own money and holding Ksh. 120 million under lien account as security.
4. Pursuant to Section 53(1) of the Public Audit Act 2015, the Accounting Officer should within three months after approval of this report take the relevant steps to implement the recommendations in this report or give an explanation in writing as to why the report is not implemented.

CONCLUSION AND ACKNOWLEDGEMENT

Hon. Speaker, pursuant to Article 229(5) of the Constitution and Section 48 of the public Audit Act, 2015, the office of the Auditor General has been mandated to audit any public entity that uses public funds. On the other hand Article 229(8) mandates the Assembly to interrogate audit reports and report to the House within specified period.

The matter on Constitutional timelines has been well spelt in the said legal provisions. It is therefore important for each entity to strictly adhere to this timelines to avoid unnecessary legal challenges. It is also important for accounting officers to note that the Public Audit Act, 2015 gives the Auditor General---

Hon. Mbili Ndawa (Matuu, MCCP): Point of information, Madam Speaker.

Hon. Speaker: Okay, point of information taken.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you, Madam Speaker. While they say while solving one problem you are likely to cause another problem; the report which is being read by our able Chair is on the County Assembly but what has been posted on our gadgets is Mavoko Water Company. So these are two different reports. So I do not know whether we are going to continue reading a report that we do not have in our gadgets.

Hon. Speaker: Let me understand; perhaps I have not picked your point.

Hon. Mbili Ndawa (Matuu, MCCP): Yes. Hon. Speaker, the report which is being presented by Chair PAIC is on County Assembly Loan Scheme but what has been posted in our gadgets here is different.

Hon. Speaker: What is on soft?

Hon. Mbili Ndawa (Matuu, MCCP): It is Mavoko Water Company. So kindly make a determination whether we are going to proceed or what we are going to do.

Hon. Speaker: All this while we have been reading a report that you do not have Members? Very interesting! Hon. Members, thank you, for bringing that to light that you

actually have the wrong information in your gadgets therefore we must make a decision perhaps we get the right document in place then come back in the afternoon and proceed with our debate. Is that in order?

Hon. Mbili Ndawa: Madam Speaker, before we say yes or no, Hon. Speaker, the House Business Committee sat yesterday and we allocated business for morning and afternoon so if we say we debate this in the afternoon it means that the business slotted for the afternoon will disappear. So I request Hon. Speaker, you direct that this matter goes back to the House Business Committee for re balloting so that we do not do away with the other report. Thank you, Madam Speaker.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Madam Speaker, I would want to seek some information. Is it in order that the information could be provided in the afternoon since in the afternoon we have very light business instead of the same going to the House Business Committee where we have tried to arrange things? So taking it back to the House Business Committee is creating more backlog so I would wish that we proceed in the afternoon and finish so that we do not have so much backlog. Madam Speaker, please.

Hon. Speaker: I think that is the best way to go about it. Members remember that last time when we had this same motion and something cropped up and we did not proceed. And so that we do not discourage the Chairperson PAIC from ...making him feel like he is not doing his work we can agree that we proceed with this debate in the afternoon, we get the right documents in the right place and then we have this matter concluded Hon. Members.

That is my request and therefore in that regard I direct that we proceed with this particular motion in the afternoon. Then I request the Secretariat, Clerks to have the right documents in the right place. We may have to discuss your conduct of giving us the wrong information in camera. Thank you.

ADJOURNMENT

Hon. Speaker: At this point the House adjourns to Tuesday 8th August 2023 at 2.30 pm. Thank you, Hon. Members.

The House rose at 12.42 p.m.

