

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 24th October, 2018

The House met at 10.22 a.m.

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

PRAYERS

Hon. Speaker: Good morning, Hon. Members. Mr. Clerk, do we have quorum? I am told we have quorum. Mr. Clerk, proceed

NOTICE OF MOTION
LIMITATION OF CHIEF OFFICERS TO A MAXIMUM OF 13

Hon. Speaker: Hon. Members, under this Order, we have one business by the Hon. Museku.

Hon. Museku: Thank you, Madam Speaker.

Hon. Speaker, that aware that Article 179(3)(b) of the Constitution of Kenya provides for the appointment of 10 county executive committee members for the county with 30 or more members of County Assembly;

Aware that this number defines the number of departments a county shall have and aware that Machakos county should have 10 departments as per this provision of the constitution thus an equal number of Chief Officers;

Further aware that Section 45(3) of the County Governments Act 2017 states that a county Chief Officer shall be responsible for respective county executive committee member for the administration of a county department;

Aware that Governor of Machakos forwarded a list of 23 nominees for vetting and approval for appointment of County Secretary and Chief Officers pursuant to Section 44 and 45 of the County Governments Act;

Aware that the Governor appointed four other Chief Officers directly hence bringing the total including the County Secretary to 27;

Aware that the number of departments as per the list of Chief Officers does not tally with the numbers departments as per the list submitted during the nomination of chief executive committee (CEC) members;

Noting that during a meeting between the Assembly general oversight committee and the County Public Service Board, the Board informed the committee that the county had bloated wage bill;

Further aware that the County Public Service Board acknowledged that no staff audit had been done;

Acknowledging that there has been an outcry from the public that they need development;

Aware that such a high number of senior officers in the county executive will increase recurrent expenditure hence reduce funds for development:

Aware that article 196(1)(b) of the Constitution of Kenya 2010 provides that the Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees;

Aware that the public also need to be too involved in how the county is governed;

Hon. Speaker, I beg to give a notice of motion that this House discusses and resolves to limit the Chief Officers to be appointed to serve in the County Government of Machakos to a maximum of 13.

Thank you, Madam Speaker.

(Applause)

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

MOTION

REPORT ON PETITION BY JEMILY CONSTRUCTION COMPANY LIMITED

Hon. Speaker: Hon. Members under this Order, we have one business by the Hon. Stephen Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker.

Hon. Speaker aware that section 15 of the County Governments Act 2012 provides that a person has a right to petition the County Assembly to consider a matter within its authority including an enacting, amending or repealing any of its legislation;

Aware that the Assembly received two petitions from Jemily Construction Company Limited as per Standing Order 194 on 8th December, 2017;

Aware that the the company's prayer was that the Assembly intervenes and have the county executive pay it for the work done on Mathauta-Mbingoni Primary-Kyasioni road in Matuu ward and Kithooni river in Katangi ward;

Noting that the petitions were referred to finance and revenue collection committee and aware that the committee investigated the matter and compiled a report;

Madam Speaker, I beg to move a motion a motion that this Hon. House approves a report on finance and revenue collection committee on petition on Jemily Construction Company Limited.

Thank you, Madam Speaker.

Hon. Speaker: You don't want the House to discuss the report; you just want it to approve?

Hon. Mwanthi: Sorry, Madam Speaker; to discuss and approve the report.

Hon. Speaker: That this house discusses and approves.

Hon. Mwanthi: Yes, Madam Speaker. So, I call upon Hon. Justus Kiteng'u to second that motion, Madam Speaker

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

Hon. Kiteng'u: Thank you, Madam Speaker. Madam Speaker, I do second the motion.

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

Hon. Mwanthi: Thank you once more and this is the report for finance and revenue collection committee and petition by Jemily Construction Company Limited.

REPORT OF FINANCE AND REVENUE COLLECTION COMMITTEE; ON PETITION BY JEMILY CONSTRUCTION COMPANY

INTRODUCTION

Preamble

Hon. Speaker, the Assembly received two petitions through the Office of the Clerk of the County Assembly pursuant to Standing Order 194 from Emily Chemutai and Jennifer Chepkurui of Jemily Construction Company limited. The petitioners' main prayer was that the Assembly to intervenes and have the County Executive pay them Ksh. 3,280,804.80 for the first petition and Ksh. 974,350.45 for the second petition for works done. The petitions were dated 7th December, 2017 and were received in the Assembly on 8th December, 2017.

On 19th December, 2017 the petitions by Jemily Construction Company were tabled in the House and pursuant to Standing Order 201 committed to the Finance and Revenue Collection Committee.

Mandate of the Committee

Hon. Speaker, the Finance and Revenue Collection Committee is one of the sectoral committees of the Assembly established pursuant to the County Assembly of Machakos Standing Orders. Standing Order 190(5) defines the functions of a Sectoral Committee as follows:-

- a. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned department;
- b. Study the programmes and policy objectives of departments and the effectiveness of the implementation;
- c. Study and review all County legislation referred to it;
- d. Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;

- e. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the Assembly;
- f. To vet and report on all appointments where the constitution or any law requires the Assembly to approve, except those under Standing Order 184 (*Committee on Appointments*); and
- g. Make reports and recommendations to the assembly as often as possible, including recommendation of proposed legislation.....In addition, the Second Schedule of the County Assembly Standing Orders defines the mandate of the Finance and Revenue Collection Committee to include all matters relating to the management of County public finance and revenue collection.

Committee Membership

Hon. Speaker, the Finance and Revenue Collection Committee as currently constituted comprises of the following Hon. Members:-

- | | |
|--------------------------|--------------------|
| 1. Hon. Stephen Mwanthi | - Chairperson |
| 2. Hon. Josphat Kasyoki | - Vice Chairperson |
| 3. Hon. Betty Nzioki | - Member |
| 4. Hon. Brian Kisila | “ |
| 5. Hon. Caleb Mule | “ |
| 6. Hon. Fredrick Muthoka | “ |
| 7. Hon. Justus Kiteng’u | “ |
| 8. Hon. Margaret Mwikali | “ |
| 9. Hon. Moffat Maitha | “ |
| 10. Hon. Phoebe Koki | “ |
| 11. Hon. Judas Ndawa | “ |
| 12. Hon. Thomas Mutinda | “ |

The Petition

Hon. Speaker, the petitions by Jemily Construction Company were submitted pursuant to Section 15(1) of the County Governments Act which provides that 'a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.' The petitions were tabled in the House as per Standing Order 194 and referred to the Committee pursuant to Standing Order 200. The petitioners' grievances were:

First Petition

1. The company was contracted by the Machakos County Government to carry out installation of culverts and protection works on Mathautha-Mbingoni Primary road on 4th June, 2014 under Contract No. GMC/GPRH/RDS/091/2014-2015 in the amount of Ksh. 3,280,804.80.
2. The Company accepted the award on 5th June, 2014 and promptly implemented the work which was completed on 14th December, 2014.
3. The Company requested for substantial inspection of work on 5th December, 2014 following which a taking over certificate was issued on 25th February, 2015.
4. Payment was sought immediately upon receipt of the taking over certificate from the Chief Officer and on 20th March, 2015 and the Company sought a final inspection despite non-payment.

5. Following delay in payment, the Company made a request vide a registered letter to the Governor on 14th July, 2015 but there was no response.
6. The Company has been following up for the payments verbally and also in writing but all in vain.
7. The Company wrote to the Chief Officer, Finance on 3rd January, 2017 and copied to the County Secretary requesting for payment but there was no reply.
8. The Company visited the County Secretary on 10th January, 2017 and raised the matter and was requested to do a reminder. A reminder demand notice to the County Secretary was done on 27th January, 2017.
9. The County Secretary referred the Company to the Chief Officer, Roads for informing the company that the matter can be dealt with by the concerned department.
10. Since then, the Company has been unable to get any help from any office and they have lost assets like vehicles due to bank loans and accruing interests.
11. None of the issues raised in the petition is pending in any court of law, Constitutional or any other legal body.

Second Petition

12. The company was contracted by the Machakos County Government to carry out rehabilitation of degraded river by construction of weir at Kithoni river site two (2) in Katangi Ward, Yatta Sub-County on 13th October, 2014 under Contract No. GMC/EENR/DR/02/2014-2015 in the amount of Ksh. 974,350.45.
13. The Company accepted the award on 16th October, 2014 and signed an agreement on 20th October, 2014. The work commenced on 7th April, 2015 and was completed on 4th June, 2015 and taking over done on 8th June, 2015.
14. Payment was sought immediately upon receipt of the taking over certificate from the Chief Officer and on 8th June, 2015 and the Company sought a final inspection despite non-payment.
15. Following delay in payment, the Company made a request vide a registered letter to the Governor on 14th July, 2015 but there was no response.
16. The Company has been following up for the payments verbally and also in writing but all in vain.
17. The Company wrote to the Chief Officer on 3rd January, 2017 and copied to the County Secretary requesting for payment but there was no reply.
18. The Company visited the County Secretary on 10th January, 2017 and raised the matter and was requested to do a reminder. A reminder demand notice to the County Secretary was done on 27th January, 2017.
19. The County Secretary referred the Company to the Chief Officer after informing the company that the matter can be dealt with by the concerned department.
20. Since then, the Company has been unable to get any help from any office and they have lost assets like vehicles due to bank loans and accruing interests.
21. None of the issues raised in the petition is pending in any court of Law, Constitutional or any other legal body.

Hon. Speaker, the petitioner's prayers to the Assembly for the two petitions are:

1. To intervene to have the payment of the work done effected.
2. To facilitate payment of interest in accordance with the contract document.

3. To intervene to have payment of retention money effected in accordance to the contract.

Acknowledgement

Hon. Speaker, the Committee is grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the Committee sittings and facilitating the Committee to retreat. I wish to express my appreciation to the Hon. Members of the Committee who sacrificed their time to participate in the activities of the Committee and in preparation of this report.

CHAPTER TWO LEGAL FRAMEWORK

Representation

Hon. Speaker, Article 1 of the Constitution of Kenya provides that, all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution and Article 2 of the Constitution states that, the people may exercise their sovereign power either directly or through their democratically elected representatives. Further Article 3(a) delegates the sovereign power of the Constitution to the County Assemblies in matters of the County Governments.

Presentation of Petitions

Hon. Speaker, Article 37 of the Constitution of Kenya provides that every person has the right, peaceably and unarmed to present petitions to public authorities. In addition, Section 15(1) of the County Governments Act provides that, a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

Invitation of Witnesses

Hon. Speaker, Article 195(1) of the Constitution of Kenya provides that, a County Assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information.

Further, Section 18 of the County Assemblies Powers and Privileges Act provides that, “a County Assembly or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, a County Assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the Constitution of Kenya 2010.

CHAPTER THREE COMMITTEE INQUIRY ON THE PETITIONS

Committee inquiry on Petition No. 1

Hon. Speaker, the first petition was on payment of work done on Mathauta-Mbingoni Primary-Kyasioni road. To gather information on the petition, the Committee invited the following persons to appear before it:-

- (i) The petitioner.

- (ii) The Chief Officer – Roads, Transport and Public Works.
- (iii) The Chief Officer – Finance and Revenue Collection.

Submissions by the Petitioner

Hon. Speaker, the petitioner appeared before the Committee on 13th March, 2018 and informed the Committee that the Company came to know about the tender for Mathauta-Mbingoni Primary-Kyasioni road in Matuu ward through an advertisement on the notice board at the County Government Headquarters. The Company bid for the work and it was notified of the award to undertake the project on 4th June, 2014.

The Company accepted the offer on 5th June, 2014 and signed an agreement between the Government of Machakos and itself on 2nd July, 2014 to undertake construction or road works for improvement of storm water drainage facilities on Mathauta-Mbingoni Primary-Kyasioni Road (GMC/TRPH/RDS/91/2-13-2014) in Matuu ward for a value sum of Ksh. 3,280,804.80. The contract was signed by the Chief Officer, Department of Transport and Roads in the presence of Engineer T.N. Omai for the County Government and Emily Chemutia for Jemily Construction Co. Ltd.

The petitioner informed the Committee that they undertook the work and completed by December, 2014. The work included putting murrum on the road, doing 84 meter culverts and five boxes of gabions. On completion, the company requested for inspection of the work and a takeover certificate was issued in February, 2015. After being issued with a takeover certificate the Company raised a certificate of payment in March, 2015 which on taking to the Chief Officer, Finance and Revenue Collection, it was asked for a local service order (LSO).

Members sought to know how they could have started work without the LSO and the petitioner informed them that they had done other projects with the National Government and they had never been asked for a LSO. Members also observed that at the County Government hit the ground running in 2013 to 2014 and that is why some documents were left out like the LSO. Members further observed that with or without a LSO, there was a valid contract which was enforceable.

The Petitioner informed Members that they were able to get the LSO from the Accountant General in July, 2016 but they have not been paid to date. The Petitioner wrote to the Chief Officer, Finance requesting for payment but was referred to the Chief Officer – Transport and Roads who informed her that there was need for an audit of the work done. The Audit team informed the petitioner that the work was worth Ksh. 3.1 million and not as per the quoted amount in the contract.

The petitioner informed the Committee that they have been tossed from one office to another but they have not been able to get their payments. The petitioner wrote to the Governor on the matter of the payment without reply and was told to go through the Deputy Governor. The petitioner was informed that she had to go through the Personal Assistant of the Deputy Governor for an appointment which she did but has not been able to get an appointment up to date.

The Committee was informed that the petition was not in any court of law and that the petitioner had not gone to court to protect the name of the Company since many organizations were asking for such information when applying for tenders.

Submissions by the Chief Officer, Roads, Transport and Public Works

Hon. Speaker, the Chief Officer Roads, Transport and Public Works was to appear before the Committee on 12th March, 2018 at 10.30 a.m. The Chief Officer wrote a letter on 5th March, 2018 explaining that the pending bill for Jemily Construction Company was in the process of payment. He attached supporting documents which included payment voucher and verification certificate by internal audit committee recommending payment for the work done. The Chief Officer did not turn up for the meeting of 12th March, 2018.

Submissions by the Chief Officer – Finance and Revenue Collection

Hon. Speaker, the Chief Officer, Finance and Revenue Collection was to appear before the Committee on 12th March, 2018 at 10.30 a.m. but did not turn up. The Committee made follow up and the Chief Officer appeared before the Committee on 16th April, 2018. The Committee asked the Chief Officer to confirm the position on the payment of Jemily Construction Co. Ltd for work done on Mathauta-Mbingoni Primary-Kyasioni road in Matuu ward.

The Chief Officer informed the Committee that the matter of Jemily construction had not been brought to the attention of the Department hence it could not be paid. The Committee provided the payment vouchers forwarded by Chief Officer, Roads to the Chief Officer, Finance who observed that they had lapsed since they were done in 2016. The CO undertook to advise the Department of Roads to prepare another payment voucher.

Re-Invitation of Chief Officer, Roads, Transport and Public Works

Hon. Speaker, the Committee re-invited the Chief Officer, Roads, Transport and Public Works to appear before the Committee again on 2nd July, 2018. The Chief Officer sent the Acting Director, Roads and an Accountant of the Department to represent him as he was away from office.

The Officers tabled before the Committee another payment voucher and informed the Committee that the payment was at the Internet Banking (IB) level and the petitioner would be paid. The payment voucher was of Ksh. 3,124,576.00.

Committee visit to the project site

Hon. Speaker, the Committee undertook a site visit to Matuu ward to find out whether the project had actually been done and to establish the scope of work carried out on 19th March, 2018. The Committee made the following observations:

- (i) That the contractor had constructed a total of 12 culverts on Mathauta-Mbingoni Primary-Kyasioni road. The culverts were still intact and in good condition. There was need for some road works to direct the water into the culverts.
- (ii) That five boxes of gabions had been laid on the sides of the road in areas where quarrying activities had encroached to the road. The gabions were in good condition.
- (iii) That murrum and hard core had been spread on a portion of the road that had black cotton soil thus making the road passable.
- (iv) While on the tour of the road, the committee interviewed the person who was contracted to spread murrum and hard core on the road; a Mr. David Muoka who informed the Committee that he delivered a total of 70 trucks of murrum and hard core at the cost of Ksh. 3,500 per truck and had been paid for 40 of them while the rest remained unpaid.

Committee inquiry on Petition No. 2

Hon. Speaker, the second petition was on payment of work done on Kithoni River weir in Katangi ward. To gather information on the petition, the Committee invited the following persons to appear before it:

- (i) The petitioner.
- (ii) The Chief Officer, Energy and Natural Resources.
- (iii) The Chief Officer, Finance and Revenue Collection.

Submissions by the Petitioner

Hon. Speaker, the petitioner appeared before the Committee on 13th March, 2018 and informed the Committee that the Company was approached by the department of Energy and Natural Resources to undertake construction of a weir at river Kithoni in Katangi ward. The Department assured them that funds for the project were available and they should not worry about payments. The total cost for the project was of Ksh. 947,350.45.

The contract was signed on 20th October, 2014 and completed the work on 4th June, 2015 and a takeover certificate issued on 8th June, 2015. The petitioner explained that she faced the same challenge of being requested for a LSO and they were issued with one on December, 2015 but they have not been paid so far.

The Committee was informed that the petition was not in any court of law and that the petitioner had not gone to court to protect the name of the Company since many organizations were asking for such information when applying for tenders.

Submissions by the Chief Officer, Energy and Natural Resources and Chief Officer, Finance and Revenue Collection

Hon. Speaker, the Committee invited the two Chief Officers to appear before the Committee on 6th August, 2018. The Chief Officer, Energy and Natural Resources informed the Committee that the Department was working on the payments for the weir constructed at river Kithoni and requested for one week to forward the payments to the County Treasury for payment.

The Chief Officer, Finance and Revenue Collection informed the Committee that she needed a maximum of two months to pay the petitioner after the payment vouchers were received in her office because the documents were likely to reach her office after requisition of funds to the Central Bank of Kenya. The Chief Officer, Finance informed the Committee that the petitioner had already been paid for the work done on Mathauta-Mbingoni road. The department had retained a sum of about Ksh. 301,000.00 as retention money which will be released after six months.

Committee visit to the project site

Hon. Speaker, the Committee undertook a site visit to Katangi ward to find out whether the project had actually been done and to what extent on 10th July, 2018. The Committee made the following observations:

- (i) That the contractor had constructed a weir of approximately 20 metres by 1.5 metres across river Kithoni. The weir was in good condition as per the estimation of the Committee as it did not show any signs of weakness and sand had already accumulated behind the weir.

- (ii) The Committee was informed by the site engineer of the Company who accompanied it to the site that the weir was two feet deep and two feet in height. The foundation was laid on a basement rock which made it strong.

CHAPTER FOUR COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Committee Observations

Hon. Speaker, the Committee made the following observations during its inquiry on this petition:

1. That the contractor had done the work contracted as per the contract agreements and completed in good time. This can be ascertained from the audit reports attached by the contractor and the departments.
2. That delay in paying the contractors had adverse effects on them. The loans they obtained to undertake the work had accrued huge interests and paying them at this time was not beneficial.
3. Statutory organizations like the Kenya Revenue Authority (KRA) have been threatening the contractors with blacklisting them and making them unable to get further works for failure to remit taxes yet they had not been paid.
4. The petitioner has been paid for the work done on Mathauta-Mbingoni primary-Kyasioni road save for the retention money which will be paid six months from the date the payment was made. The payment was done by the petitioner who asked the committee to ensure from the chief Officer when the retention money will be paid.
5. The department was not following the laid down procedures of procurement by issuing contractors with LSOs once they instructed them to do work. This was making it difficult for payment.

Committee recommendations

Hon. Speaker, the committee makes the following recommendations as per the prayers of the petitioners:

1. The department of finance and revenue collection should ensure the petitioner Jemily Contraction Company was paid for the work done at river Kithoni as per the construct documents.
2. At the laps of six months the department of finance and revenue collection should pay the constructor retardation money for the work done on Mathauta-Mbingoni primary-Kyasioni road in accordance with the construct.
3. The county should plan to settle all the pending bills relevant departments with pending bills should provide for then in their respective budgets to be in line with the recommendations from the Controller of Budget.

CHAPTER FIVE CONCLUSION

Hon. Speaker, it is therefore my pleasant duty and privilege, on behalf of Finance and Revenue Collection Committee to table this report on Petition by Jemily Construction Company in this Hon. House for consideration and approval. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Steve Mwanthi. Hon. Members, I need to give some directions on before we proceed further on this report. I want to refer you to Standing Order 201 of the House Sanding Orders. In particular I looking at Standing Order 201(2); you will notice that when a petition is committed to a particular committee and that committee is supposed to process it and sent it to the petitioner within 60 days.

This report is coming over two months from the date of committal; it was committed on the 19th of December, 2017 and on that one, the House is not doing very well. Actually, it is doing very badly on petitions but the next part is more important that the Standing Orders do not allow debate on a petition but if the Speaker is of the opinion that the petition touches on exceptional circumstances, then the Speaker can allow comments or observations and no for more than 20 minutes.

Are you reading the Standing Orders with me; those are your Standing Orders. So, what I will do Hon. Members so that we can proceed on this matter is.....I appreciate it is a matter that raises exceptional circumstances because it is not lost to the Speaker that there has been hue and cry over pending bills and that is touching on services that are delivered to the county government and later payments are not done and the effect on the members of the public who have been giving the services is usually catastrophic.

So, the Speaker is part of the society and is aware of that fact and for that reason the Speaker will allow comments or observations for not more than 20 minutes on this issue. So for the flow of business, I am going to propose the question and within that framework, I will allow for comments or observations and for not more than 20 minutes.

(Question proposed)

Hon. Members, let me have you comments and observations from this point. Hon. Matee.

Hon. (Ms.) Ndeti: Hon. Speaker, first of all I want to commend the committee on finance for doing a good job n coming up with this report on the petition; it is very well analyzed and my comments or observations are that our county is not keeping up with government rules and regulations as pertaining to procurement because it is unfortunate that a customer comes, a tender is floated and it is awarded and an LSO is issued after awarding of the contract.

Our county government must ensure that procedure of procurement is adhered to. It is unfortunate that customer are going out of their way and getting loans from banks, giving services to residents of Machakos and the respective department is not keen enough to ensure that there are funds to pay for the services rendered. This is a way of killing people's companies and businesses and I would recommend that the county government tries to avoid this kind of a scenario in future. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Ndeti. Hon. Cosmus Masesi.

Hon. Masesi: Thank you, Madam Speaker. I want to thank the committee led by the Hon. Stephen Mwanthi for giving us detailed information about the works done by Jemily construction. It is progress, in a way, because we have realized when the petition was brought to this House, one of the contract was paid whereby a percentage of 10 per cent which I want to

believe is within the law was retained by the County government which is supposed to be paid at the lapse of six months. This should not be the way for contractors when they are being given jobs---

Hon. Speaker: So, Hon. Masesi, you are saying part of the amount has been paid to the petitioner.

Hon. Masesi: Yes, Madam Speaker, on the Ksh. 3 million tender.

Hon. Speaker: All of it?

Hon. Masesi: 90 per cent; 10 percent was retained which is Ksh. 301,000. It is within the report, which is within the law for the amount to be retained. This should not be the way forward for contractors when they have done their job; they should be paid in real time to enable them move on with their lives.

Again it will be good for the Assembly to be furnished with information on how much we are owed by contractors and those contractors who owe us to do proper budgeting to settle our pending bills. If things have to move like that, we have passed so many things Madam Speaker, motions, resolutions and if we move like that, we do a resolution and the Executive acts we could be heading to the right direction.

We need to push for the comments of the committee for the retention money to be paid and the one job which is around Ksh. 900,000 to be paid also. Thank you, Madam Speaker.

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

Hon. Museku: Thank you, Madam Speaker. I would like to congratulate the Chair finance and his team for a job well done and a report well-prepared. If you look at the report, it is clear that Jemily Construction Company got value out of the petition which they brought before this Assembly. It is through that petition and hard work which was done by the committee that this company managed to get paid.

If you look at the history, what has been given there, the company had tried all other ways and means of getting payment from the Executive and resorted to come before this Assembly via a petition and I would like to congratulate the committee and the entire House for having assisted this specific contractor to get paid.

The question which lingers is; is this the way to go? Do we really say that for somebody who has been given a legal contract by the Government of Machakos needs to wait until he does a petition through the Assembly or any other means for them to get paid? I don't believe that should be the way to go. When the job was issued, a contract was drawn and it was binding between the contractor and the County government.

It is amazing that no LSO was raised at that time and somebody along the road tried to use the lack of that LSO being in place as a reason why they are not paying yet a contract had been issued. Why would someone issue a contract without a corresponding LSO? There is need for the County Government of Machakos especially the Executive, when they are giving out contracts, they give out contracts and corresponding LSOs and honor those contracts.

It is disheartening to see a company getting a contract, somebody gets money from a financing firm on the strength of the contract they have, most of the contractors actually go and

give a security of a title deed or their house because they have a contract at hand. If it remains for such a long period like this one, before being paid and this person had no other source of income, then it will mean they will lose their assets which they gave as a collateral bearing in mind we as a County Government of Machakos had given them a valid contract.

So, I would request all contracts which are being given to be properly approved, have funds in the budget for them and to be given LSOs so that our contractors can have a peace of mind. The retention money of 10 per cent is normally done to ensure quality work is done. It is retained for a period of six months so that after six months if the work which had been done is still intact then you are given that 10 per cent; to ensure that quality work is done so it my hope and believe that since the committee confirmed the wear and the roads are still in intact then that 10 per cent is going to be paid.

The other pending bills which we are all aware of; we have seen pending bills t the tune of billions in this county. When we were going through the budget, we did not see any specific attempt by the Executive to clear these pending bills. I would again request the Executive to ensure they come up with a schedule and a provision for how they are going to clear all genuine pending bills in the county. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Hon. Members, let me call the mover to reply very briefly.

Hon. Mwanthi: Thank you, Madam Speaker. Let me appreciate the Members who have supported the motion citing that there is no particular organization that can develop without paying its people. It is the high time the County Government paid all its contractors to make sure the county moves on. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Stephen Mwanthi.

(Question put and agreed to)

Hon. Members, just a rider on your resolution; you will notice the seriousness of a customer and I like the reference of a customer by Hon. Matee Ndeti. When the member of the public does business with governments, obviously they are a customer and they are giving services to the government.

From this petition, it would appear that many members of the public do not know how to do business with the government and perhaps the Assembly may need to sensitize the members of the public in some way because if you are being given a business by the government and you don't have the LSO, then you don't have any contract you can rely on with the government. That is the problem perhaps and it is a short cut somebody not wanting to pay will use.

Secondly, if a member of the public is not able to pay a bank loan on money they took to do a business; you appreciate the seriousness of being black listed by the Credit Reference Bureau, going forward you can never access any loan from a bank until you have been cleared by that bureau and you can only be cleared if you have paid the debt and you cannot pay the debt until you are paid for the work you did.

So, you can see the situation the County is putting many of its citizens into economically, socially and even health-wise. If you are in red economically then you are also in red health-wise. So, it is for the House to decide on what to do about the pending bills whether you want to

know how much it is and how it is going to be paid and the way forward. The House has a duty; it is still part of your mandate.

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point, the sitting of the House is adjourned to the 24th October 2018 at 2.30 p.m. don't forget that that is today.

The House rose at 11.14 a.m.