

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 26th February, 2020

The House met at 10.03 a.m.

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

PRAYERS

Hon. Speaker: Serjeant at Arms, please ring the bell we do not have quorum.

(Quorum Bell rung)

Serjeant at Arms, please stop ringing the bell we have quorum. Good morning, Hon. Members; we can start our sitting this morning. Mr. Clerk, please proceed.

PAPER LAID

PUBLIC FINANCE MANAGEMENT (MACHAKOS COUNTY BURSARY FUND) REGULATIONS,
2019

Hon. Speaker: Hon. Members, we have one business by Hon. Patrick Kituku.

Hon. Kituku: Madam Speaker, I beg to lay the following Paper on the Table of the Assembly today, Wednesday, 26th February, 2020; Delegated County Legislation Committee report on consideration of the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019.

(Hon. Kituku laid the Paper on the Table)

Hon. Speaker: Thank you, Hon. Kituku.

NOTICE OF MOTION

PUBLIC FINANCE MANAGEMENT (MACHAKOS COUNTY BURSARY FUND) REGULATIONS,
2019

Hon. Speaker: Hon. Members, we have one business again by Hon. Patrick Kituku.

Hon. Kituku: Thank you, Madam Speaker.

Hon. Speaker, that aware that Delegated legislation is a law made by an executive authority under powers given to them by primary legislation in order to implement the requirements of that primary legislation and that aware that Delegated legislation, in the form of Statutory Instruments, is governed by the Statutory Instruments Act (No 23 of 2013) which provides for the making, scrutiny, publication and operation of statutory instruments;

Aware that Section 116(1) Of the Public Finance Management Act (PFMA) authorizes the County Executive Committee member for finance to establish other public funds with the approval of the County Executive Committee and the County Assembly, it is for this reason that the County Executive Committee Member (CECM) responsible for finance, using the powers conferred by section 116(1) of the PFMA, prepared and submitted the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019 to the County Assembly for purpose of reviewing and scrutinizing the statutory instruments;

Aware that the committee went through the regulations and established that indeed they were in accordance with the provisions of the Constitution, the Public Finance Management Act, 2012 and that they meet the criteria laid out under Section 13 of the Statutory Instruments Act and Standing Order 190;

Hon. Speaker, I wish to give Notice of Motion that this Hon. House discusses and approves the Delegated Legislation Committee report on consideration of the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019.

Thank you, Madam Speaker.

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

MOTION

REPORT OF ON FINANCIAL STATEMENTS OF MWALA WATER AND SEWERAGE COMPANY FOR THE YEAR ENDED JUNE, 2017

Hon. Speaker: Hon. Members, we have one business by Hon. Joseph Musau.

Hon. Musau: Thank you, Madam Speaker.

Madam 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 Mwala Water and Sewerage company was received in the Assembly and 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;”

Informed that the committee invited the Accounting Officer of the said company, interrogated him and subsequently compiled a report;

Hon. Speaker, I wish to move the Motion that this House discusses and approves the report on Financial Statements of Mwala Water and Sewerage Company for the year ended June, 2017.

Thank you, Madam Speaker and I call Hon. Winnie to second this motion.

Hon. Speaker: Thank you. Hon. Winnie.

Hon. (Ms.) Mutua: Thank you, Hon. Speaker. I second the motion.

Hon. Speaker: Thank you. Hon. Musau, proceed.

Hon. Musau: Thank you, Madam Speaker

INTRODUCTION

Madam Speaker, the report of Auditor General on the Financial Statements of Mwala Water and Sewerage Company for the year ended June, 2017 was received in the office of the Speaker, pursuant to Article 229(7) of the Constitution that states that Audit Reports shall be submitted to Parliament or the relevant County Assembly.

The report was committed to Public Accounts and Investments committee 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.”

COMMITTEE MANDATE

Madam Speaker, the Public Accounts and Investments Committee is established pursuant to Standing Order 185(1) and (2), that states that; there shall be a select committee to be designated the County Public Accounts and Investments Committee which shall be responsible for:

- a. The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- b. The examination of the reports, accounts and workings of the County Public Investments;
- c. The examination, in the context of the autonomy and efficiency of the County Public Investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

COMMITTEE MEMBERSHIP

Madam Speaker, the Public Accounts and Investment Committee comprises of the following Hon. Members;

1. Hon. Joseph Musau – Chairperson
2. Hon. Winfred Mutua – V/Chairperson
3. Hon. Agatha Mutunga

4. Hon. Alice Nzioka
5. Hon. Johana Munyao
6. Hon. Josephat Kasyoki
7. Hon. Peter Mutiso

LEGAL PROVISIONS ON AUDIT REPORTS

Madam Speaker, 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.”

Article 229 (8) of the Constitution that states that “within three months after receiving an audit report, the parliament or the County Assembly shall debate and consider the report and take appropriate action.”

Article 201 enumerates fundamental principles that guide all aspects of public finance in the Republic. The principles are that:

- (a) There shall be openness and accountability, including public participation in financial matters;
- (d) Public money shall be used in a prudent and responsible way; and
- (e) Financial management shall be responsible, and fiscal reporting shall be clear.

Article 226(2) of the Constitution states that the accounting officer of a county public entity is accountable to the county assembly for its financial management.

Section 94(1) of the Public Finance Management Act 2012 states that; the following factors, singly or in combination, may further indicate that a State organ or public entity is in serious material breach or persistent material breach of the measures established under this Act—

- (a)(iv) is more than sixty days late in submitting its annual financial statements to the Auditor-General in accordance with this Act or any other legislation.

Section 96(1) of the same Act provides that:

- (1) Where the Cabinet Secretary finds a State organ which is a county government entity to be in serious or persistent material breach of its obligations or financial commitments, the Cabinet Secretary shall, in accordance with Article 225 of the Constitution, immediately stop the transfer of funds.

Section 9 of the Public Audit Act 2015(e) provides that the Auditor General shall have powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities listed under Article 229(4) of the Constitution.

Section 36 (1)(2) provides for Performance Audit that:

- (1) The Auditor-General shall conduct performance audit to examine the economy, efficiency and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution.
- (2) The Auditor-General may undertake a comprehensive performance audit within six months after the completion of any National or County project to evaluate, whether the citizen has gotten value for money in the project and submit the report to Parliament or County Assembly for tabling and debate.

Section 37 of the Public Audit Act 2015 provides that the Auditor-General may, upon request by Parliament, conduct forensic audits to establish fraud, corruption or other financial improprieties.

Section 47(1) and (2) of the same Act adds that

- (1) The financial statements required under the Constitution, the Public Finance Management Act, 2012 (No. 18 of 2012) and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.
- (2) The financial statements shall be in the form and content as prescribed by the Public Sector Accounting Standards Board.

Section 53(1) of the Act states that the relevant accounting officer of a state organ or public entity shall within three months after Parliament has considered and made recommendations on the audit report—

- (a) Take the relevant steps to implement the recommendations of parliament on the report of the Auditor-General; or
 - (b) Give explanations in writing to the Parliament on why the report has not been acted upon.
- (2) Failure to comply with the provisions of subsection (1), the accounting officer shall be in contempt of Parliament or County Assembly and upon determination by Parliament or relevant County Assembly, Parliament or relevant County Assembly may recommend administrative sanctions such as removal of the Accounting Officer, reduction in rank among others.

Section 62 (1)(b)(c)(d) and (2) is clear that; a person who-

- (b) Without justification, fail to provide information required under this Act;
 - (c) Without justification, fail to provide information within reasonable time that is required under this Act;
 - (d) Submit false or misleading information;
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding Ksh. 5 million or to imprisonment for a term not exceeding three years, or to both.

Section 63 of the same Act provides for General penalty that: Except as otherwise provided for under this Act, a person who is found guilty of an offence under this Act for which no other punishment is given, is liable on conviction to a fine not exceeding Ksh. 2 million or to a term of imprisonment not exceeding one year or, to both.

Section 65 of the Act provides for Surcharge that: If it is established by the Auditor General that there has been any deficiency in respect of any money or assets subject to its audit, the Auditor-General may recommend to Parliament or County Assemblies that the person in default or responsible should be surcharged with the amount of the deficiency or loss.

Section 66 of the same Act talks of Ineligibility to hold public office that; a person who is convicted of an offence under this Act shall not be eligible to hold public office or work with an entity owned in whole or part by the State for a period of 10 years following the conviction.

Section 67 of the Act provides for disallowable expenditure that; where the Auditor-General becomes aware of—

- (a) Any payment made without due authority; or
- (b) Any deficiency or loss occasioned by negligence or misconduct; or
- (c) Any sum which ought to have been, but was not brought to account, he or she shall, in the case of expenditure, call in question the sum concerned and make a report on the sum to Parliament and the relevant County Assembly.

5.0 COMMITTEE SITTINGS AND EVIDENCE TAKING

Madam Speaker, The committee commenced its sittings on August 2019 to analyze the report alongside the management response that had been received from the Accounting Officer of the Company. On the same month, the office of the Clerk of the County Assembly wrote letters to the Executive Officer, Mwala Water Company and to the Office of Auditor General inviting them on 11th September, 2019 at 10.00 am to consider the report as provided in Standing Order 185(2)(a) and the meeting was conducted as planned.

6.0 THE AUDIT QUERRIES

1. UNDISCLOSED MATERIAL UNCERTAINTY RELATED TO GOING CONCERN

Madam Speaker, During the year under review, the company recorded a loss of Ksh. 3,955,277 (2015/2016 a loss of Ksh. 741,000) resulting to depletion of retained earnings / general reserves from negative Ksh. 5,309,424 as at 30 June 2016 to negative Ksh. 9,254,701 as at 30 June 2017. Further, the total current liabilities of Ksh. 10,825,221 as at 30 June 2017 exceeded the total current assets of Ksh. 4,809,938 by Ksh. 6,015,283.

The above conditions are indications of existence of material uncertainty which casts significant doubt about the ability of Mwala Water and Sanitation co limited to continue as a going concern. The existence of the company as a going concern is based on the assumption of continued support from the county government of Machakos and its creditor's. However this material uncertainty has not been disclosed in the financial statements.

Response

In response, the Accounting Officer stated that the company is not a profit making company but it exists to provide water and sanitation services to the residents of Mwala. The cost of production of water was very high due to cost of electricity since the company depends on pumped water. Further, the company does not charge water to its customers to recover cost but it's guided by the water tariffs approved by WASREB.

Observations

The Committee observed a trend of increasing liabilities way above the Company's current assets. This is an indication that with time the company may be unable to pay its operational costs including salaries of its employees as much as the company is not a profit making body.

Further the committee noted that with increasing cost of electricity for pumping, the company will continue incurring high expenditure and this will be an indicator of unsustainable production.

The committee also noted that pursuant to the provisions of Section 72 of the Water Act 2016, there is a provision of Tariff review to ensure financial sustainability of a water provider. Further, the same Section 72 warrants for tariff review when the cost of Inputs go high and also when there is Increment in cost of electricity, fuel and their spiraling effect.

Recommendations

The Committee recommends that the Company should write to WASREB to review its water tariffs to match the increasing cost of inputs and electricity. This is in line with Section 72 of the Water Act 2016, that mandates Water Services Regulatory Board (WASREB) to evaluate and review tariffs when the cost of Inputs go high and also when there is increment in cost of

electricity, fuel and their spiraling effect. This will ensure financial sustainability which is the objective of Tariff review as provided by the Act

2. UNACCOUNTED FOR REVENUE

Madam Speaker, available records indicate that during the year under review, the company produced 123 cubic meters (m³) of water, out of which 83,685 m³ or about 68 per cent of the total volume produced was billed to customers. The balance of 39,981 m³ or approximately 32 per cent of the total amount was not billed. The unaccounted for water of 39,981 m³ exceeds the allowable loss of 25 per cent set by water services regulatory board which translate to 30,916 m³ resulting to abnormal loss of 9,065m³.

The significant level of Unaccounted for Water (UFW) impact negatively on the company's profitability and its long term viability.

Response

The Accounting Officer in response stated that the company has already started replacing all old meters with new ones to improve on water wastage. This will reduce water losses increase efficiency in water monitoring.

Further, the company has started a program of installing water meters outside the consumer premises in order to increase water surveillance and reduce water theft through meter removal.

Observations

The committee noted that the Company has improved in monitoring for Unaccounted for Water (UFW) because in the last Financial Year, the un-billed water was 35 per cent above the allowable standard as compared to 32 per cent recorded this year.

It was also noted that the company's new strategies of doing replacement of old meters and fixing of meters outside the customers' premises has slightly improved water monitoring and reduced cases of water loss from dishonest customers

However, as indicated in query No.1 on undisclosed material uncertainty on the going concern, the company is undergoing financial challenges hence casting doubt on its ability to purchase the said water equipment and also recruitment of competent water monitoring personnel.

Recommendations

The committee recommends that the County Government of Machakos in its mission to provide water to all households should in the next Financial Year allocate funds to facilitate Mwala Water Company to rehabilitate its water systems by purchasing classic water meters and quality pipes. This is because the company being non-profit making body, it has controlled water charges and with increasing cost of inputs, it will be difficult for them to maintain their water systems well. Hence un-billed water will keep on increasing year after year.

3. TRADE AND OTHER RECEIVABLES

Madam Speaker, As disclosed at note 8 to the financial statements, trade and other receivables balance of Ksh. 4,495,571 as at 30 June, 2017 includes inactive debts totalling to Ksh. 3,004,768 which had increased by Ksh. 261,565 from the previous year's balance of 2,743,203. However only Ksh. 300,477 or 10 per cent of the total inactive debts was provided as

bad and doubtful debts, consequently the full recoverability of trade and other receivables balance of Ksh. 4,495,571 as at 30 June 2017 cannot be confirmed.

Response

In response the Accounting Officer said that most of the inactive debts are over eight year's existence and the management has categorized into age analysis. The board will engage an expert who will review the debtors and advice on ones which are recoverable and others which are non-recoverable.

Observations

The committee observed that most of the debts featuring in active accounts were inherited from the Local Government long before the formation of the company. However the committee noted that some of the debts can be recovered with proper strategies in place since the consumers are just from Mwala area. This will be one approach of addressing the uncertainty of the company's going concern by increasing its current assets.

Further the committee observed that currently, there is duplication of roles between the County Government and Mwala Water Company because the County Government is offering free water by sinking boreholes in the various wards. The defaulters therefore have an option of getting free water and so chances of paying the debts is very low considering also the level of poverty in the rural community..

Recommendations

The committee recommends that the company should identify the debts that are payable alongside the details of the customers, then issue those customers with demand letters of payment of goods and services offered failure to which the company should seek legal assistance. This will be the only way to cure continued piling of debts which the company will later be forced to categorize as aged debt.

The company should also embrace controlled water provision to those customers who do not honor timely payment. This will ensure that the amount supplied to customers does not shoot above a certain limit.

On the matter of aged debts the Committee recommends that the Management in consultation with CEC Finance should write off some of the old debts pursuant to Section 150 (2) of the Public Finance Management Act, 2012 that states that "An accounting officer for a county government entity, may with the approval of the County Executive Committee member for finance, write off a loss exceeding the amount referred to in subsection (1) but not exceeding a further amount, and in circumstances prescribed by the regulations approved by Parliament."

4. BANK AND CASH BALANCES

Madam Speaker, The statements of financial positions reflects bank and cash balances of Ksh. 214,367 as at 30 June 2017. As disclosed at note 10 to the financial statements included in the balances is an amount of Ksh. 39,795 in M-pesa amount which was not supported by confirmation certificate of the balance from Safaricom. In addition the reconciliation statement for the expenditure account reflects balance of Ksh. 2,925 but the bank confirmation certificate reflects a balance of Ksh. 3,925 resulting in unreconciled difference of Ksh. 1,000. Consequently, the accuracy of bank and cash balances of Ksh. 214,367 as at 30 June 2017 cannot be confirmed.

Response

The Accounting Officer responded that the company has since gotten the statement of balance confirmation from Safaricom indicating Ksh. 39,795 as the balance as at 30 June 2017. The difference of Ksh. 1,000 was charges for bank balance confirmation certificate which were not captured in the confirmation certificate.

Observations

The Committee observed that during the time of audit, the Accounting Officer did not provide MPESA certificate to confirm the MPESA balance of Ksh. 39,795 although the same certificate was availed to the committee during the interrogation time.

In this case the Financial Statement was deficient of important content as required in Section 47(2) of the Public Audit Act 2015 that states that: The financial statements shall be in the form and content as prescribed by the Public Sector Accounting Standards Board.

The committee was satisfied with the explanation from the Accounting Officer on the un-reconciled difference of Ksh. 1,000 stated in the Query and the circumstances that led to failure to attach the MPESA balance statement.

On inquiring from the Auditors if the MPESA certificate to confirm the MPESA balance of Ksh. 39,795 was received and verified from their office, the Auditors confirmed. The Committee therefore was satisfied that the Query was resolved.

5. RETAINED EARNINGS

Madam Speaker, The statement of changes in equity reflects a negative balance of Ksh.5, 309,524 against retained earnings as at 30th June 2016 while statement of financial position reflects a negative balance of ksh.5, 332,620 in respect of the same item as at that date. The resulting difference of Ksh. 23,196 has not been reconciled or explained as a result the accuracy of retained earnings balance brought forward cannot be confirmed.

Response

The discrepancy was as a result of a typing error. The figures were re-instated in the financial statements.

Observations

The committee observed that the submitted financial statement had an error that resulted to a variance of Ksh. 23,196 although the Accounting Officer stated that a re-instatement of the financial statement was done and forwarded to the Auditors for verification. This matter was confirmed by the Auditors during the interrogation exercise. However, as provided in Section 47 (2) of the Public Audit Act 2015, the Financial Statements submitted was deficient of content.

6.0 GENERAL OBSERVATIONS

Hon. Speaker, further from the observations made from the specific queries, this committee made the following general observations

1. That Mwala Water Company offers water services at a controlled tariff rate of Ksh. 60 for 1000 litres (i.e. 1 Unit). This translates to Ksh. 0.06 per litre. This implies that One 20 litre jericane of water is offered at Ksh.1.20. In this case the company hardly collects any money.

2. The company is a non-profit making entity only established to offer water services,
3. That the water system of the company is dilapidated and this implies that it is practically difficult for the company to pay for rehabilitation of the water system
4. The inability to pay for the above it implies that the unaccounted for water and that is non-revenue water will continue being witnessed.
5. It is practically difficult for this company to initiate legal proceedings in the effort of collecting its debts since the company is financially handicapped.
6. It is also difficult to sustain payment of qualified accounting staff to keep its records hence cases of audit issues are highly expected.
7. It is evident that this company will soon be declared insolvent considering the huge liabilities against its assets as seen in the report.

7.0 GENERAL RECOMMENDATION

Madam Speaker, basing on the above observations this committee recommends that the County Government of Machakos in the next financial year should put a reasonable budget for all water companies in Machakos County, Mwala water being included. The budget should be enough to cater for rehabilitation of water systems in order to reduce non-revenue water. It should also cater for general repairs and administrative costs. Further the same budget should address the critical issue of qualified accountants so that audit issues can be addressed better.

8.0 CONCLUSION

Madam Speaker, the management of public funds is an issue the Kenyan population is passionate about. A fundamental objective of every government is maintenance of fiscal discipline, resource mobilization, strategic resource allocation, and efficient delivery of public services.

When the devolved system of government was adopted in Kenya, the importance of establishing strong and effective public financial systems at the County level became inevitable. It is important to note that the vesting of responsibility for the provision of water supply and sanitation to the County Governments set the stage for a realignment of the water sector. To achieve the progressive realization of the human right to water and sanitation, Machakos County Government should ensure that water services are provided in a cost-effective and affordable manner

It is therefore my privilege and pleasure on behalf of Public Accounts and Investments Committee to table before this Hon. House the report on Financial Statements of Mwala Water and Sewerage Company for the Year ended June 2017 for discussion and adoption. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Musau.

(Question proposed)

Hon. Speaker: Hon. Museku.

Hon. Museku: Thank you, Madam Speaker, for giving me this time to air my views on this report. Madam Speaker, I would like to thank the Chair, PAIC and his entire committee for

the report which they have presented, before this House on issues pertaining to the financial records and statements for Mwala Water and Sewerage Company.

Madam Speaker, looking at the report from the Auditors, It is comprehensive and it brings forward some issues, which are wanting in nature. If you look at the financial statement, which is talking about a loss of 9 million litres, having been lost and not accounted for and that company is selling the water at Ksh.1.20 per 20 litre and then it loses 9 million litres.

Yes, I understand that it is governed by the tariffs which have been set for water but my question is there is a very thin line between being able to provide people with water at affordable prices and not being able to provide water at all. If this company continues the way it is continuing, Madam Speaker, I do not see the people of Mwala continuing to be given water by this company.

It is making huge losses, what we call the reserve is negative and the negativity is growing at some point it will mean that the company will not be able to sustain even minor repairs of the pipeline which is supplying the water unless more money is pumped in. So, in as far as the committee has brought this report before this House, I believe it is the duty of this Assembly to be able to come out with reports, to be able to come out with recommendations to the County Government in as far as the tariffs of water is concerned.

There is no way you are going to sustain water at Ksh. 1.20 for a 20 litre and expect to maintain pumps, expect to maintain pipes and expect to pay salaries and wages for the people who are maintaining those lines. As you have seen they are talking about meters, which are not working, if the meters are not working, how are you determining the throughput, which is going to the various customers even at that very low rate of Ksh. 1.20.

How can we be able to ascertain that the 9 million liters were not channeled to somebody's plantation, or were not put in bowsers and taken to be sold in other areas, It is difficult for us to be able to ascertain that because for you to be able to do that you need systems which are working. When you look at the accounts receivable, they are growing year out year in.

The provision of the accounts receivable for the bad debts is very low compared to what is reflected on the books. So, it shows that there is a tendency to try and show or to reflect this company as a viable going concern, whereas because in the actual provision of bad debts was done, then that negativity you are seeing in the what they are calling general reserves would more than double and people would be questioning the viability of that project.

If we are saying the companies work is to provide water and services to the people for free, then the County Government should be able to fund fully that company so that all its equipment are working, they are giving people water, they are paying salaries and wages and the funds which the County Government is pumping in there comes in as revenue so we have income coming from the County Government reflected as income and expenditure on the overheads which people are using there and do not even talk about the throughput.

If the purpose is to give water for free then the County Government should take the total costs to run this company and say to run this company or for me to provide people in Mwala, I need so much money for salaries, I need so much money for maintenance costs add all that and say in a year I need Ksh. 10 million. Therefore, they allocate Ksh. 10 million in our budget and out of it we account for the Ksh. 10 million in and out and stop reflecting as if we are running a commercial company and doing financial statements which are being audited while we are not doing that.

So a decision will need to be made as far as this company is concerned. If they are non-profit making if there are companies which are not going to be making any money, then they

need to be treated as nonprofit making organizations, revenue comes in being funded by the County Government and expenditure comes in as is being utilized and the people are given the water for free.

If you call it Mwala Water Company Limited and you put the word limited, then that means that it is a limited company, it has directors, it has to be audited and all this issues year in year out will be reflected. I would challenge the committee which has done this report to go ahead and do a comparative report of the audit issues which were done in the previous year and compare them with the audit issues which have been raised in the current year and see the kind of repeat performance you are going to be seeing the same things which were raised 2014/2015, are the same things you will find in 2015/2016, are the same things you will find 2016/2017.

So that repetition of itself gives, you chance to write a recommendation to the County Government in as far as handling of this company is concerned. Thank you, Madam Speaker.

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

Hon. Mitaa: Thank you, Madam Speaker. First, I want to thank the committee for bringing up the report Madam Speaker. It is clear that this company is not performing as expected. Again, I have a concern with the report because if I am not wrong is reporting on matters which happened even before we came to this Hon. House. It is a 2017 report and we are 2020, Madam Speaker---

Hon. Speaker: Hon. Mitaa, it is a valid concern he is raising; Hon. Musau, when did the Assembly receive the report from the Auditor General?

Hon. Musau: I will refer and tell you Madam Speaker, but if you allow me to answered Hon. Mitaa on the same---

Hon. Speaker: I am actually trying to answer him if you can tell us when the---

Hon. Musau: I will refer and tell you.

Hon. Speaker: You don't have the detail; maybe the Table Clerk will need to find out for you. Yu want to give information to *Mheshimiwa* Mitaa?

Hon. Musau: Yes, Madam Speaker. Let us appreciate that as an Assembly, we are facing a serious challenge on shortage of Clerk Assistants because you see like the Clerk at the Table who guides us through this business has still other equally important committees chaired by Madam Speaker and at times when we sit on Monday also Madam Speaker the chair is also sitting the same Clerk Assistant.

So we are at many times forced to postpone some issues or else we may be forced to be sitting on Saturdays and Sundays so that we may match the requirements of the House. Thank you, Madam Speaker.

Hon. Speaker: Yes, I am still asking the Clerk at the Table to find out when the report came to the Assembly then we will move on from there. Hon. Mitaa, partly informed; you can proceed.

Hon. Mitaa: Thank you, Madam Speaker. I think my message is that we need to review on some issues because these reports do not just come for the sake of being reported. They come so that we cross-check on issues and if they delay, we might delay in responding to some urgent matters.

Hon. Speaker, we have a similar situation in Kangundo Matungulu under the KAMAWASCO and maybe the right department will need to do some review because Madam Speaker like for the case of KAMAWASCO, the boreholes are at Kangundo, and in fact, one is in my ward but you find even when a pipe bursts, you try to call the institution you find there is no one who can come and work on the burst pipe and it ends up damaging the roads.

So, Madam Speaker, efficiency is a problem and if as County Government of Machakos, we are providing water free of charge service and it is either we go that way and eliminate those companies because it is coming out they are not of any help to our people, Madam Speaker. KAMAWASCO can stay even for five or six months without supplying water to the residents and you ask yourself its importance, Madam Speaker.

I think there was also an issue which we were discussing, I cannot recollect whether it is the same company but there is a time we went to Kibauni ward and Madam Annastacia I don't know whether it is the same company but it was the same problem and same issues. So, Hon. Speaker, from these reports echoing what Hon. Museku has said, from these reports it in black and white that these companies are not making any sense, their existence is not being felt.

So, it is either instead of wasting county monies, it is either now we embark on adding more boreholes which will serve our people; solar-powered boreholes because the greatest problem is power bills. These companies whenever you ask them they tell you they have lost this amount of water to an extent they cannot raise revenue. So, if that is the problem we can just agree we do our solar-powered boreholes and we supply water to our residents free of charge. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mitaa. Hon. Winnie.

Hon. (Ms.) Mutua: Thank you, Madam Speaker. I want to applaud the committee for the good work that they have done of bringing in the report. We have to understand that these water bodies are facing a lot of hardships in the collection of debts and also even employing competent people to work. As Hon. Mitaa has said, sometimes you can call them to come and repair pipes that are broken but it is very hard because the staff that are there are not competent.

Another thing the County Government should do is instead of sinking more boreholes, I would request even it is in the recommendation, if that money can be directed to the water companies because they are offering water for free because most of the boreholes that are sunk are non-existent. They are not even providing the water the people need. So, I would request also the County Government, if it is possible, to direct the money to the water companies because we have a lot of non-existent boreholes that are running in our county. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Winnie. Hon. Members, just something about water companies. Those who have been around for some while you know that previously water was being supplied by the Municipal Councils and Urban Councils and Town Councils and County

Councils but then in 2002 after a lot of lobbying through the public, Parliament thought that it was time to do water sector reforms.

So they came up with the 2002 Water Act and that is the law that removed supply of water from local authorities and then created the water companies which are supposed to be the sellers or the vendors of the water. The water companies are usually under Water Boards; Water Boards are on a larger region, like here initially in Machakos we were under Athi Water Company and, of course, there are politics around it so we were taken to Tanathi Water Company which is based in Kitui.

Tanathi Water Company is serving Machakos, part of Athi River and general Ukambani so to speak, the Machakos and Kitui also. Other areas also have their water service boards. It is the Water Service Boards that are still under the National Government and they are the ones that undertake infrastructure, they are the ones that are supposed to build the sewerage system which is hardly in any of the places that we know. Kenyans are hardly served by sewerage system; Nairobi is just about 50 per cent but even then, the ones that is functional is just about 20 per cent.

Machakos we know we do not have a sewerage system, Athi River, Kajiado all that area. So, the water service boards are supposed to be the ones who receive the funding to put up infrastructure, the piping and to address the water, the loss of water, water unaccounted for which is usually burst old pipes and also sheer theft of water.

The water companies work, they lease they are supposed to pay the water boards lease to use the infrastructure to give water and do not make profit so they need a lot of support and most of them don't even have that resource to sell, the water, they don't have that resource which they are supposed to sell and plough it back to the infrastructure through the water boards. It is an interesting scenario because even the National Water Pipeline Corporation is also supplying water.

So, if we want to strengthen water companies and some of them like the Mavoko Water Company hardly have any water to supply until the other day they got a what they call Portland Dam and they only get that water during rainy season but the beauty of water companies is that they treat the water; that is where I am coming to. They treat the water because some of them have water treatment plants, which again are also done by the water boards remember.

So, if we want to strengthen the provision of water and clean water in sufficient amounts, let us think about the viability of the water companies because you could say then lets wind them up and let us have boreholes but the borehole water is it treated? Actually, the law requires that even you as a private person when you sink a borehole you are supposed to sell the water through the Water Companies, you enter into a contract so that you give the water to the Water Company and then it is supplied to the public because of checking on sanitation and fitness of the water.

So, it is not as easy as we may think but it is something we need to think about going forward. Let us discuss it with some kind of information in mind on the arrangement in the law and so later the Water Companies have now been brought under County Governments but remember the Boards that are supposed to put up the infrastructure are under the National Government. Let us just think about it now from those kinds of perspectives. Do we continue with the debate? What I have said is just for your information. Has it terminated the debate?

(Loud consultations)

The way forward; we still have of course the points to discuss on the way forward. Hon. Cosmus.

Hon. Masesi: Thank you, Madam Speaker. I would like to appreciate the report by the PAIC committee and bearing in mind that we have had several reports of this kind and I want to believe this House has on those several occasions maintained that we need to look at the Management of these Boards.

Madam Speaker, I do not understand how you cannot account for 32 percent with the water which is sold. We are not told whether this amount of water, the 32 percent was initially, measured by the meter from the source or it is within the leakages to their destined points of sale.

Again, when you look at the market value of 1 cubic meter is around Ksh. 150. So, if the Company has to sustain giving water, maybe they have the only option which is going to Ksh. 150 per cubic meter. Again, when you look at the kind of debts, something close to Ksh. 4.5 million, we have been doing boreholes and these amounts can dig three boreholes up to solar-powered which we have to set a budget aside and we have not assured the sustainability of the same when we have spent a lot of money.

My suggestion is like supporting Hon. Mitaa's contribution that we need maybe to increase our boreholes rather than setting amounts to settle these debts because there is no assurance of no more debts once they are paid. These boards have always said that they inherited these debts from the County Councils; we are not assured of that since these boards have been on over a good time bearing in mind we are looking at a report of 2017; what of 2018, 2019 and 2020?

These debts will pile up to Ksh. 10 million so, we need as House agree on the way forward; do we really need these Boards or Companies? As a County Government, we are committed to giving clean and affordable water to the households within our locality. Otherwise, we need to agree as a House the way forward. Thank you.

Hon. Speaker: The composition of the water Companies, it is a Limited Liability Company but the greatest shareholder is the County Government; the County Government sends its representatives around four or five and the Engineer is also there and there is a representative of the women, representative of business association in the particular town and then representation from the Universities and residents among others. So, even as you discuss, understand that you also own those Companies through the County Government. Hon. King'ori

Hon. King'ori: Thank you, Madam Speaker. I stand to support the report but I also want to make my views on the way forward. I think the best thing to do for those Companies is to privatize; all of them.

(Applause)

We enjoin them and then we privatize them as one unit whereby the County Government will be the minority shareholders and the owners of the Company should have merit and qualification to run a water Company which will also guarantee the County that, when we give you this project we are going to get a return over investment.

Madam Speaker, I think it is the high time we know that when Companies are run by private investors who are able, we can even have more services driven by those Private

Companies. So, I think the best thing is to privatize all of them and then we think about our percentage and our intake so that instead of getting losses they also may be paying us the taxes. So, the private Companies will have more advantage than when we are getting losses under the current state. Thank you.

Hon. Speaker: Thank you, Hon. King'ori. Hon. Hellen.

Hon. (Ms.) Ndeti: Thank you, Madam Speaker. I stand to support what my fellow Member of County Assembly Hon. King'ori. I believe there is goodwill to get water to the people and water is life but we cannot keep on talking about boreholes that are not functional. It seems as if there was never much research done before we started these Water Companies to ensure that there is up and running of the Companies.

So, I feel that it is the high time our County looks at coming up with a Private Public Partnership so that we get people who are already specialized in running these Companies, water as a resource and ensure that at least these boreholes are properly run, water is treated and everybody will have water. So, I think the problem is the management which should be looked into. Thank you, Madam Speaker.

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

Hon. Mwanthi: Thank you, Madam Speaker. Though this is a report from the Auditor General, my observation would be, because this is a report that was given in the year 2017, today it is 2020 and it is a report from the PAIC Committee, I thought it would be prudent if we also could be getting reports now from the Water committee, the current status of those facilities. I understand we have the County Water Boards that were formed, they are operational and working.

We could be getting the progress reports from the Water Committee so that we may know exactly what is happening with the entire team because some of the reports we are getting are quite funny because you find some money was deposited on Mpesa, as per the report, other money was in the account.

So, it is an issue that seems, if not well addressed we might end up killing good Companies that maybe would respond well to the Community. So, if we could get updated reports from the committee, we get reports from the water Boards that are already existing from the County Government and at least get to know what exactly is happening. You see when somebody tells you that he managed to bill 65 percent of a company that is running and 35 percent he or she does not know where it went to.

It calls for so many questions because how did you lose the 35 percent and again how did you count to know the 35 percent? Mostly the report is referring to faulty meters not even pipes. If they are replacing as they say the old meters with new ones to make sure that they are not losing the water, then the question is, how did they get to know that the 35 percent is getting lost? With 35 percent that is being lost in those Companies, what have they done since 2017 and 2020?

If we could be getting such updated reports, it would be good and from that now we can make a good decision on what to do with the Boards otherwise, if they are not working for our people then there is no need to have them. Thank you, Madam Speaker,

Hon. Speaker: Thank you, Hon. Stephen Mwanthi. Hon. Members, maybe Hon. Musau and the Water docket is under Hon. Kisini? Members, if you really want to address the issue of water supply in the County and it is very important. Remember, they are talking of the Thwake Dam which is just somebody said 40 percent on constructed; it is likely to give Machakos water which we have been lacking because of the Kilimanjaro project has not served, Maruba Dam, not serving again.

You will need to think seriously about the supply of water and if you are still addressing the issue of water Companies maybe Hon. Musau's Committee and they one of water may need to do a visit to Nyeri. Nyeri Water Company is one of the greatest success stories not only in Kenya but in East Africa. You may need to go there and just do a benchmarking on how they do it and then again, we shall also decide which way forward to addressing the issue and also advising the Executive from this end.

So, that is something maybe your committees may consider and as we are talking now that Nyeri some of the MCAs and the Speakers are also coming here to do benchmarking on your canteen which is a success story then you can also ask them that you want to go there and benchmark on their water Company which is a success story. Thank you. Hon. Musau please reply as the mover.

Hon. Musau: Thank you, Madam Speaker. May I highlight that it is an indicator already and very soon these Companies may fizzle out. We may not be talking of these water companies in existence, Madam Speaker. Reasonably, our Governor advocates for free water and they try as much as they can to provide this water yet these Water Companies must sell water and in respect to that, you see, it is a formation of the County Government being called a water company being in competition with the same County Government and this beats logic.

I happen to come from Mwala from Mbiuni Ward which is being supplied with the water of Mwala Water Company and unless the accounting officer in future cooks figures, he may give a false report because we know what is happening there, Madam Speaker. The salaries of the employees are not forthcoming; let us be sincere. They are not able to pay their employees timely not even timely; they are going for months without salaries. This shows how these Companies are becoming ineffective and I may say purely not due to mismanagement but due to a competition that they cannot avoid.

Madam Speaker, competitor number one was the boreholes, now we have the issues of the mega dams which will have the water purified and reticulated also at no cost and still competing with these Water Companies and the water in Mbiuni we sometimes go up to three months with dry taps from these small Water Companies owing to electricity bills. So, I it means the future of these Water Companies is very dull.

So, Members, thank you for seeing the challenges facing these great employees of Water Companies and actually mainly it is not inefficiency. Madam Speaker, since I was a child in Mbiuni the same pipes which were being used are the ones still being used, every time there is water burst there is this and this, there us a lot of loss and there is very little the County Government is doing to replace such pipes and I guess sometimes even these workers, the plumbers, the groundsmen for the water Mwala Company are forced even to corrupt so that they can survive. Let us be sincere hence you can see such a difference. Thank you, Hon. Members and Madam Speaker at this point I would wish to seek your guidance and that of the House on the way forward.

Madam Speaker, as PAIC we have to observe that there is a lot of disconnect. How polytechnics are being funded by public money and being funded, there is a lot disconnect between the reality and what is being said about the monies. So, as PAIC Committee, probably we shall come to you because we have never audited any polytechnic because we sense there is something not good. Thank you, Madam Speaker.

Hon. Speaker: Thank you and for being so poetic, Hon. Musau.

(Laughter)

Actually, we admire your fast reading of the report in particular and ending it on a poetic note.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point we shall adjourn the sitting, it is going to resume on the 26th day of February 2020 at 2.30 p.m. Thank you.

The House rose at 11.17 a.m.

