

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 9th July, 2019

The House met at 11.12 a.m.

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

PRAYERS

Hon. Speaker: Good morning, Hon. Members. We are starting a little late because information reaching me is that some Members have not finalized giving their programs to the committee on trade for the purposes of CIDP as we agreed in our last sitting. So, we gave those Members this morning to finalize. I have information that they have done so but I will do further communication when we come to Order No. 2. We can start our sitting this morning. Mr. Clerk.

COMMUNICATION FROM THE CHAIR
PROGRAMMES IN THE CIDP 2018-2022

Hon. Speaker: Thank you. Hon. Members, under this Order, I have a brief communication still on CIDP. If you remember on last Wednesday, we adjourned on agreement that the Members who had not forwarded their programs to be included in the CIDP would do that. The last extension was yesterday, 8th July, 2019. However, later, at around 5.00 p.m, I got information that still some Members had not given their programs and because of the importance of the programs on the CIDP, I extended it to this morning up to 11.00 a.m.

I am informed that the following Members have not yet forwarded their programs but I do not think that they had given programs earlier on so most likely that is what they wish to go into the CIDP and that is what will go to the CIDP because we must put a closure to this process. It is believed that the Hon. Member for Ekalakala ward, for Masinga Central ward, for Kivaa ward, for Kola ward, for Mua ward, for Muvuti/Kiima Kimwe ward had given their programs earlier on and that is what will be included now in the finalized CIDP.

So, what the committee Chair Hon. Kieti will do, will proceed to conclude that process because the CIDP is going to be debated and concluded tomorrow; I have seen the balloting from the House Business Committee and that is so Hon. Members. Mr. Clerk, proceed.

PAPER LAID
REPORT ON EDUCATIONAL TOUR TO GREECE

Hon. Speaker: Hon. Members, under this Order, we have two businesses; the first one is by the Hon. Museku and the second one by Hon. Majority Leader Mark Muendo. Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. Hon. Speaker, I beg to lay the following paper on the table of the Assembly today, Tuesday, 9th July, 2019; report of the County Assembly leadership educational tour in Greece on agriculture and food processing. Thank you, Madam Speaker.

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

Hon. Muendo: Thank you, Madam Speaker. Statement on the business of the House; Hon. Speaker, I stand under Standing Order 41(2)(a), where during the statement hour---

Hon. Speaker: Hon. Majority Leader, yours is coming as the Order No. 7 so the papers laid, I had been given information that they would be to by Hon. Museku and Hon. Majority Leader but I noticed that it is only Hon. Museku who is laying the Paper so there is only one business there. We will proceed till we reach you point under Order No. 7. Sorry about that.

Hon. Muendo: I stand guided, Madam Speaker. Thank you.

Hon. Speaker: Mr. Clerk, proceed.

STATEMENT

BUSINESS FOR THE HOUSE FOR 9TH TO 17TH JULY, 2019

Hon. Speaker: Hon. Members, under this Order, we have two businesses. The first one is by Hon. Mark Muendo and Hon. Angela Munyasya. Hon. Mark Muendo, Majority Leader.

Hon. Muendo: Thank you, Madam Speaker. Statement on the business of the House; Hon. Speaker, I stand under Standing Order 41(2)(a), where during the statement hour, a Member of the House Business Committee designated by the committee for that purpose shall, for not more than ten minutes, present and lay on the Table a Statement informing the House of the business coming before the House.

Hon. Speaker, the House Business Committee met on 8th July, 2019 and received business balloted for the House for this week of 9th to 10th July, 2019 and balloted business for the next week 16th to 17th July, 2019 pursuant to the provision of Standing Order 151 as follows:

Tuesday, 9th July, 2019

Morning at 10.00 a.m.

- a. Report of public accounts and investment committee on the financial statements of Yatta Water and Sewerage Company for the year ended 30th June, 2016 by Hon. Joseph Musau, chairperson.
- b. Statement by Hon. Angela Munyasya on what the County Government of Machakos is doing to mitigate the current situation of hunger and starvation the residents of Machakos are facing brought about by prolonged drought in the entire county.

Afternoon at 2.30 p.m.

- a. Report of Labour Public Service and ICT committee on budget implementation status report for the first three quarters of financial year 2018/ 2019 by Hon. Francis Kalumu, Chairperson.
- b. Statement by Hon. Dominic Ndambuki on what the Kenya National Highways Authority (KeNHA) is doing to curb accidents along Mumbuni-Kathiani road especially at Kwa Kakonzi area.

Wednesday, 10th July, 2019

Morning at 10.00 a.m.

Report of Trade Economic Planning and Industrialization committee on the County Integrated Development plan for 2018/ 2022 (CIDP) by Hon. Cosmas Kieti, Chairperson.

Afternoon at 2.30 p.m.

Report of the education committee on Initiation of school feeding programs to public ECDs centers by Hon. Daniel Kiilu, Chairperson.

Tuesday, 16th July, 2019

Morning at 10.00 a.m.

Report of Budget and Appropriation committee on the report of the controller of budget on the implementation of the county budget for the half year of financial year 2018/ 2019 by Hon. Dominic Ndambuki, Chairperson.

Afternoon at 2.30 p.m.

- a. Report of Agriculture committee on the status of the climate smart agriculture initiative in Machakos County by Hon. Moses Mitaa, chairperson.
- b. Report of the County Assembly Leadership Educational Tour on agriculture and food processing held in Greece from 6th- 12th April, 2019 by Hon. Mark Muendo, Majority leader.

Wednesday, 17th July, 2019

Morning at 10.00 a.m.

Report of committee on implementation on the implementation status of the ATC report by Hon. Fredrick Muthoka, Chairperson.

Afternoon at 2.30 p.m.

Report of joint committees of justice and legal affairs and environment energy lands and natural resources on effects of quarries to the residents of Mavoko Sub-County.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Majority Leader. I must commend on the House Business Committee because I noticed that there is business balloted way in advance; at least the public is also able to know what business is coming so that those who have interests can come perhaps and listen to the Members as they address the interest that are in the core in their hearts.

It is good practice that if we can even ballot business a month in advance it is going to be of great help and actually that is what the law requires us to do as a way of informing the public. Thank you. Hon. Angela, it is the second business under Order number seven. Hon. Angela.

STATEMENT SOUGHT MITIGATION AGAINST HUNGER AND STARVATION

Hon. (Ms.) Munyasya: Thank you, Madam Speaker. Hon. Speaker, pursuant to Standing Order 41, I wish to seek a statement of what the County Government of Machakos is doing to mitigate the current situation of hunger and starvation the residents of Machakos are facing brought about by the prolonged drought in the entire county. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Angela. Hon. Members, this is a Statement and usually our procedure is to have Members ventilate briefly before we commit the Statement for purposes of addressing the matter that is raised in the statement. Any Member who may want to contribute on this Statement that is being sought? Hon. Majority Leader, Mark Muendo.

Hon. Muendo: Thank you, Madam Speaker. Let me start by thanking the Member for seeking this Statement. Madam Speaker, as you are aware and we as selected Members we are aware that the rains have failed in the country, not only in Machakos. I think this Statement is timely and Madam Speaker, a county or a country which does not care about the health of the people, then you cannot call it a government.

Madam Speaker, I would maybe suggest that in this financial year, we have allocated some money and I understand we had not allocated some money for the hunger but we can have a supplementary budget, Madam Speaker, because our people especially from those sides of Kibauni and Yatta, we know our country better; there is nothing in the farms. Madam Speaker, as far as we are concerned, all these are our people who made us to be here and we cannot sit here in the House, Madam Speaker, when we know the fact that there is a lot of hunger.

So, Madam Speaker, I propose that we have, as soon as possible, a supplementary budget where we can allocate some funds which to the Executive can be used to distribute food. Other counties that I know, last week Makueni County took some 4,000 bags of maize to Kibwezi area and some beans. Here in Machakos, although we are saying we could be okay but there are some parts which are fully suffering from the hunger.

Madam Speaker, for this statement I think it is timely and I want this House when we have supplementary budget to pass it for the Executive to use that money to deal with hunger. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mark Muendo.

(Applause)

Hon. Speaker: Hon. Minority Leader Alex Kamitu.

Hon. Kamitu: Thank you, Madam Speaker. In fact it is very timely, we should also applaud Hon. Angela who has brought this issue and geographically the whole country has been affected by the delayed rains so in essence we are talking about drought and there is nothing we can discuss much because eyes are open; the areas that we come from Madam Speaker there is drought so it is the responsibility of this House as what the Majority Leader has said, we need to move forward so that we prevent a situation.

There is no harvest, those areas that we were expecting to harvest the crops have withered so the signs are very bad. We need to move very quickly as an emergency and do what is required so that we save a situation where as a House we cannot sit down and see our people starving; it is very important we make a very quick move. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Kamitu. Hon. Annastaciah.

Hon. (Ms.) Mutuku: Thank you, Hon. Speaker. I want to appreciate the Member for bringing this Statement and it is very timely. I want to support what Majorit Leader has said; there is a problem of hunger especially my people from Kibauni are starving and there is also a crisis of water. So, I would like to urge the county government; if there are some funds it can set aside for emergency, I would request if Kibauni can be considered. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Annastaciah. Hon. Ikusya, just brief remarks.

Hon. Kaloki: Thank you, Madam Speaker. I support the statement from Hon. Angela. Considering that the rains failed and this drought is likely to prolong all the way up to November or December when we expect the next rainy season. It is quite pathetic and it is important that we set aside money through the supplementary budget as it was said by Majority Leader; we pass it so that our people can benefit from some relief food.

The other issue is water; now that there are no rains near, we would want the county government to install as many water points as possible and to equip as many boreholes as possible with the money that we have set aside in the budget so that our people and animals do not suffer. Thank you, Madam Speaker.

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

Hon. King'ori: Thank you, Madam Speaker. I want to air my views that we need to take urgent actions on the same but we are short of Emergency Fund Bill which was supposed to be brought here in the House and we have sought for it for a long time but we have never got the answers because if we had one, we could have allocated some money for the emergency in the fund but we have none or any Regulations that can guide us on how to spend money.

(Applause)

It is not only that drought that we need to care about; we also need to care about other calamities that come without our knowledge. Thank you, Madam Speaker.

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

Hon. Kisini: Thank you, Madam Speaker. I want to commend the Hon. Member who has brought this Statement; it is good we be a House of honour and we see to it that our people do not suffer; we avoid that calamity. You remember last year we have seen famine how it had stricken the people of Baringo and it is good for this House to take care and consider its people so that in Machakos we don't go into such a situation.

In that supplementary budget, we request the county to do, we also request for it to take care of the animals because in the failure of the rains, the animals might suffer and it is a combination of both the animals and people. So, it is timely and I request it to be done as soon as possible. Thank you, Madam Speaker.

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

Hon. Museku: Thank you Madam Speaker for giving me this time to air my views. I wish to thank the Hon. Member for bringing this Statement which is in due time because we are all aware that the rains failed and our people are suffering in various areas. While we were going through the budget process, we did note that there is an emergency kitty which has been set aside at Ksh. 60 million.

We needed to increase that kitty but what came to our attention was that there are no regulations which have been put for us to be able to utilize that fund; so we left the kitty at Ksh. 60 million. What we would be urging the Executive to do is to ensure that they move with speed and bring regulations before the House so that we can work on them and pass them and at least the Ksh. 60 million can be accessed and start being utilized in the most affected areas even as we wait for the supplementary budget to be done.

I would be requesting the Executive to move with speed and provide us with the regulations; we review them so that we can be able to ensure we have at least Ksh. 60 million available which can be used immediately to most affected areas. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Hon. Steve Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. I should start by applauding the Member for bringing that statement but as we do that we need as a House to ask ourselves how prepared we are when dealing with some of these things. When we seek such a Statement and we know that maybe we do not have enough kitty for the same, I think the person from the other end will start asking himself so many questions like; these people are the ones who passed this budgeted and there is no allocation.

So, my request is that we need to have or push for the same regulations; I am just supporting what Hon. Museku has said, he has said much of my thinking. We need to work on the regulations first so that we may have such kitty and regulations to give to our people.

Again, possibly in the near future, we will also need to have Chairpersons of various committees working with CECs and Chief Officers from the other end; it will be prudent when sometimes we seek information from relevant committees because if that Member had not told us that there is the Ksh. 60 million, we were all talking about supplementary. I think it is good we be dealing with the Chairpersons, we be informed so that we may first be starting with those

people to answer some of these questions so that we may move fast. Thank you, Madam Speaker.

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

Hon. (Ms.) Ndeti: Thank you, Madam Speaker. I stand to congratulate Hon. Angela for being concerned about our people. Apart from the crop failure, lack of rains, the economy is also not friendly, the cost of living has gone very high because of the national government deficit. So it is important as a county we set some funds to assist our people. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Matee. Hon. Kiteng'u.

Hon. Kiteng'u: Thank you, Hon. Speaker. Yesterday I had a *Kamukunji* with the people of my ward and the big question was; as a county, how are we prepared to counter the issue of relief food? In my ward, we have an area called Kyondoni which is really marginalized, those people sustain themselves with Ksh. 50 a day because the area is kind of a desert and Hon. Speaker, you will realize that we also have our kids and the Hon. House knows that the issue of food program in primary schools and ECDEs was abolished.

So the Statement moved by Hon. Angela I find it timely and we would request that we can omit some of the things the county government is doing so that we can cater for these issue of drought in Machakos County. My people were telling me that, we heard that Makueni received some relief food, we have Kitui the same but in our county, we have not heard of the government talking about helping our people. So, Hon. Speaker, I really support the Statement moved by Hon. Angela. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mueni

Hon. (Ms.) Mueni: Thank you, Madam Speaker. Mine is to support the statement by saying that the Governor can talk to the national government because we are having food in the cereal boards so that we can be given to give our people even if it means paying back when the supplementary comes. Thank you, Madam Speaker.

(Applause)

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

Hon. Masesi: Thank you, Madam Speaker. First and foremost, I would like to appreciate the Hon. Member who has brought the Statement bearing in mind that it is in line with the Big Four Agenda of the national government. We need to encourage and move fast in making sure that the stalled boreholes are brought into use soonest to make sure that we look for other means of improving the food production in our local areas.

As elected leaders, I want to believe we will have a big challenge because when our people are hungry they will always turn to our doors. Also I want to believe we need to make our move on the national government and make sure that Members are well kept (??) Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Cosmus. Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I want to appreciate the mover of the Statement and say that it is timely. The earliest we can harvest food is March, 2020.

Hon. Speaker: I had seen that too.

Hon. Ndawa: Yes, so we have to take care of the situation. I want to say that we need inter-governmental intervention, the county and national governments to come together to see a way of addressing this problem because it is not a small problem. The other issue that I would advise my colleagues is if the equalization fund that we are going to be given by the Executive, let us prioritize projects that can address this problem so that as we seek for assistance from elsewhere, we do something. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Members. I felt that this is a matter of great county importance and that is why I had almost every Member who wished to say something say. I also come from the same area and my area is also an area that people are in need of the support. I have also gone to a number of areas and I have seen people are really staring at starvation in their face because of the drought.

So the need for quick intervention in the county is real for people who are suffering already because of the failure of rains and we also appreciate from the sentiments expressed by the Members that as a county we should be the first ones to take action even as we wait for others to come and help us because it is a big problem; we cannot solve just us alone but even as we wait for help from outside, we must start doing something.

You appreciate that agriculture which gives us food and water is a devolved function so you are the first point of call as a county government. From the comments of the Members, it is not just the people but also livestock because if we are suffering, the livestock is equally suffering and livestock is a source of income and also food for the people. I also notice that there is a Ksh. 60 million emergency kitty but as the Member said, it is not enough but again it cannot be enhanced because we don't have regulations.

Remember Section 116 of PFM Act allows the County Government to set a fund but then there has to be regulations like we did with the Bursary Fund. So what we need to do even as we go forward to put in regulations and very urgently so, we also need to think about intervention for the future. Let us not every time have to keep on saying our people are suffering; why is it year in year out?

We are now in the planning process and we are addressing the issue of CIDP; have you addressed the issue of water, the dams in your wards so that even when the rains fail.....Israel never have a problem and they never get rain, but they don't fail in getting food and they bring food to us who get rains.

So, we need to think of the future so that we have long term measures and that is why we felt it was important that Members seriously think about the projects you want included in the CIDP and think about the long term solution of the problem that keeps on coming to us. What we are going to do; there is a lot of urgency in this matter and we will have the Budget and Appropriations committee because of the budgeting aspect address this matter urgently, get in touch with the relevant department of the County Government and make a report as soon as possible to this House but not later than 24th July, 2019 because of the urgency of the matter.

At least, I am happy we are through with the budgeting process so they can pay attention to this urgent issue which is on the Table. Hon. Members, at the same time the budget committee is dealing with the issue, emergency now, they should also address the issue of the regulations for the Emergency Fund. Thank you, Hon. Members.

MOTION

FINANCIAL STATEMENTS OF YATTA WATER AND SEWERAGE COMPANY FOR THE
YEAR ENDED 30 JUNE, 2016

(Hon. Kasyoki on 03.07.2019)

(Resumption of Debate on the Motion tabled on 03.07.2019)

Hon. Speaker: Under this Order, we have one business by Hon. Joseph Musau.

Hon. Musau: Thank you, Madam Speaker. If you allow me I will go directly into reading the report since it was moved and seconded last week and the Paper was laid too.

Hon. Speaker: Go ahead.

Hon. Musau:

1.0 INTRODUCTION

Madam Speaker, the report of Auditor General on the Financial Statements of County Executive of Machakos for the year ended 30 June, 2016 was received in the office of the Clerk 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."

2.0 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 Investment 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.

3.0 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 | Member |
| 4. Hon. Alice Nzioka | “ |
| 5. Hon. Johana Munyao | “ |
| 6. Hon. Josephat Kasyoki | “ |
| 7. Hon. Peter Mutiso | “ |

4.0 GUIDING 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 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(d) and (e) of the Constitution provides that the principles of public finance includes prudent and responsible use of public money and responsible financial management and clear fiscal reporting.

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.

Article 226(5) of the Constitution is emphatic that “if the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.”

Article 232(1)(a), (e) and (f) of the Constitution provides that values and principles of public service includes high standards of professional ethics, accountability for administrative acts and transparency and provision to the public of timely, accurate information.

5.0 COMMITTEE SITTING AND EVIDENCE TAKING

Madam Speaker, in February 2019 the committee held a meeting with the Accounting Officer of Yatta Water and Sewerage Company, Mr. Augustus Mboya who had been accompanied by other officers from the company. The invitation was to respond on various queries raised in the Audit report pursuant to 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.

6.0 DETAILS OF THE FINANCIAL STATEMENTS

6.1 Trade and other receivables (Query No. 1)

Madam Speaker, as disclosed at Note 9 to the financial statements, trade and other receivables-water supply gross balance of Ksh. 12,907,229 as at 30th June 2016 includes billing to water canal customers totaling Ksh. 7,600,000. Available information indicates that collections from the canal customers may not be fully recoverable as the customers are lobbying for full waiver of the bills.

However, although a provision for bad and doubtful debts of Ksh. 5,000,000 had been made in the year 2015/2016, the amount appears inadequate given that a provision of Ksh. 4,852,534 was made against gross trade receivables of Ksh. 5,300,109 in 2014/2015 without the canal debtors. In the circumstances, full recovery of trade and other receivables net balance of Ksh. 8,425,973 as at 30 June 2016 cannot be confirmed.

Management response

Madam Speaker, the Accounting Officer responded that the canal provision for bad and doubtful debts increased due to the fact that the canal was under rehabilitation. This happened because there was no flow of water since it was closed for the construction. The customer's reaction was that they could not pay for a service they had not received. The resolution to the waiver for the whole amount of Ksh. 10,462,756 was however reached by all the stakeholders and approved by the BOD after the audit.

Committee observation

Contrary to the response of the Accounting Officer, the committee noted that the debts stated in the audit query were realized way back when the canal had water and when water service provision was going on normally.

Further, as much as agreement to waive the huge bill of Ksh. 10,462,756 was reached after agreement of all stake holders, this move is a technical way of killing our local companies by encouraging consumers not to pay for services offered. Again water companies encourage growth of other related businesses in addition to provision of employment.

In addition, the query was on the adequacy of the provision made on bad and doubtful debtors; but the management response did not address the issue appropriately.

Recommendations

Madam Speaker, the company should scale the amount of water to be supplied to each of its customers to a certain volume above which no more supply should be done before the previous debt is paid. This will curb the risk of supplying water which the company is not guaranteed for payment. The company should also devise new strategies of timely debt collection.

The Company should formulate a policy on the provision of bad and doubtful debts which should be implemented in one year time in order to streamline this serious issue of debts which can easily cripple the company.

Hon. Speaker: Point of Order from Hon. Minority Leader.

PROCEDURAL MOTION
EXTENSION OF SITTING TIME

Hon. Kamitu: Thank you very much, Madam Speaker. Point of Order under Standing Order 27' Madam Speaker, I request extension of time.

Madam 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) provides a Motion to extend sitting time shall be moved at least thirty minutes before the time appointed for adjournment;
Hon. Speaker, I beg to move that the Motion that the House resolves to extend its sitting time until the business in the Order Paper is completed.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Minority Leader. Do you have a Member seconding that Motion?

Hon. Kamitu: Madam Speaker, I call upon Hon. Moses Mitaa to second.

Hon. Speaker: Hon. Moses Mitaa.

Hon. Mitaa: I second the Motion by our able Leader of Minority on the issue of extension of time bearing in mind that we are dealing with a very important report and it is something we must see up to the end. Thank you.

Hon. Speaker: Thank you, Hon. Mitaa and Hon. Minority Leader. Do we have any Member who would oppose the Motion to extend time to finish this business at hand? I do not see any show of hand; do we agree to resolve as a House to extend time?

(Question for extension of time put and agreed to)

(The House resumes business as per the Order Paper)

Thank you, Hon. Members. We have agreed to extend time. Proceed, Hon. Musau.

Hon. Musau:

6.2 Cash in Bank and in Hand (Query No. 2)

Madam Speaker, although monthly bank reconciliation statements were prepared during the year, the reconciliations were not adequately checked and approved by management. Consequently, the cash in bank and in hand balance of Ksh. 62,250 as at 30 June, 2016 cannot be confirmed.

Response

The Accounting Officer responded that the Company is now ensuring that monthly reconciliation is thoroughly prepared, checked and approved by the management. It can be confirmed that cash in hand was Ksh. 3,127 and cash at bank was Ksh. 59,123. Further to that, the company has put a mechanism to ensure that all reconciliation is timely prepared and approved by the managing director.

Committee Observations

The Committee confirmed that the total cash both at hand and in the bank was Ksh. 62,250 and that the query arose because of entry errors that occurred during preparation of the statement. No reconciliation statements were availed to verify that the reconciliation is currently done on a monthly basis.

Recommendations

The Accounting Officer for the purpose of future audit report should keenly scrutinize the financial statement before releasing it to the Auditors to avoid similar entry errors.

Monthly bank reconciliation should be done monthly and all necessary documentation must be provided to the auditor during the audit exercise.

6.3 Property, plant and equipment (Query No. 3)

- i) The statement of financial position as at 30 June 2016 reflects property, plant and equipment net balance of Ksh. 4,814. However, a fixed assets register showing assets reference number, date of purchase, serial number of the asset, location, depreciation, cost and details of the supplier among others was not maintained. In the circumstance, the completeness and accuracy of property, plant and equipment balance of Ksh. 4,814 as at 30 June 2016 cannot be confirmed.

Management response

The Accounting Officer responded that currently the assets being used to run daily activities are either leased from Tanathi Water Service Board or donated by the National Government. This implies that the assets are already in the books of Accounts of the parent entities. Due to this the company does not have access to sufficient documentation of the assets. Again the company is avoiding double reporting of assets. In the said financial period the company did not acquire assets of its own.

Committee observations

The committee noted that details of the said Assets such as reference Number, date of purchase, serial number, cost, Name of supplier could not be availed to the Auditors since the assets were borrowed from the stated entities. In this case the company could not keep its register of assets.

Further the committee noted that the company's net worth in terms of assets is very low that is Ksh. 4,814. The committee was also concerned why the query did not include assets such as land, water kiosks and Tanks which form obvious assets of any water company.

Recommendations

The Company in the next audit report should disclose if it possesses land, water kiosks and tanks which to the opinion of the committee are obvious assets of any water company. There is need for county government of Machakos to fund this company so that it can purchase common assets that are needed. This is because by registering assets of only Ksh. 4,814 in addition to relying on borrowed equipment indicates that the company is almost insolvent.

6.31 Break-in at the company offices.

Madam Speaker, during the year under review, there was a break-in at the company's head office and several assets including computers were alleged to have been stolen. Although this was reported to the police, there is no detailed report to explain the break-in and outline what was stolen except for the Police Occurrence Book Number (OB NO.) Under the circumstances, it is not possible to ascertain the actual assets lost as a result of the break-in.

Management Response

On the above query the Accounting Officer responded that the company office was broken into on July, 2016 and in the process two computers were stolen; one for the

administration office and the other for billing office. The matter was reported to the police who later sent an officer from the Criminal Investigation Department to the ground. He collected his information and up to now the company has never gotten the outcome yet.

Observation

The committee observed that the Company did not prepare its own report which they should have done as they await for the police report.

Recommendations

A report on any security issue should be prepared recommending the way forward on improving security and mitigating the losses incurred as a result of not having adequate security measures

6.4 Share Capital (Query 5)

The share capital of the company amounting to Ksh. 100, 000 shown in the statement of the financial position and divided into 5000 shares of Ksh. 20 each represents shares issued to the defunct Town Council of Matuu. However, the council had not paid for the shareholding by the time it was absorbed by Machakos County Government.

The payment was still outstanding as at 30th June, 2016. In the circumstances, it has not been possible to confirm whether or not the County Government is desirous of having the Company achieve its objectives as outlined in the Memorandum and Articles of Association.

Response

The Accounting Officer said that the Board of Directors and the management will do a follow up with the county government in effect of devolution to ensure that the said matter has been fully resolved.

Observations

The committee observed that although the MoU between the County government and Yatta Water Service Company limited indicated that the county government is desirous of having the company achieve its objectives, payment of the shareholding is still outstanding and the content of the MoU was not verifiable.

Recommendations

The committee recommended that the County Government of Machakos should as soon as practicable settle the matter of the outstanding shareholding payment.

6.5 Compliance with Income Tax Act and VAT Act

The company has not fully complied with the Income Tax Act, Cap 470 and the VAT Act. Although corporate tax returns were filed on a nil basis for both 2015 and 2016, those for previous years were not filed. Further, the company's year-end on the iTax platform is from January to December which is inconsistent with the company's financial year end of 30 June. Consequently, the Company may be exposed to the risk of penalties, fines and interest arising from failure to fully comply with the tax law.

Response

It was responded that the company files PAYE returns on a monthly basis. As for the income tax and VAT submission the company is engaging the services of a Tax consultant since water is zero-rated.

Observation

The committee observed that the company did not fully comply with Tax Act and VAT Act.

Recommendation

The company should in future comply fully with the Income Tax Act, Cap 470 and the VAT Act to avoid breach of law.

7.0 CONCLUSION

Madam Speaker, in order for the County Government of Machakos to realize one of its goals of providing employment and promoting the spirit of devolution there is need for the County Government to intervene to rescue some of its entities that are collapsing due to managerial or financial constraints. Yatta Water Company is one of those entities which are located in Yatta Sub-county, an area that requires serious government attention as far as provision of water is concerned.

The committee wishes to acknowledge the office of the Speaker and that of the Clerk for facilitating the committee to undertake its business, the Accounting Officer for Yatta Water Company and the Office of the Auditor General for turning up to participate in the interrogation exercise.

It is therefore my privilege and pleasure on behalf of the Public Accounts and Investments Committee to table before this Hon. House the report on Financial Statements of Yatta Water and Sewerage Company for the Year ended June 2016 for discussion and adoption. Thank you, Madam Speaker.

(Applause)

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

(Question proposed)

Hon. Members, I now invite you to debate the Motion. Hon. Museku.

Hon. Museku: Thank you Madam Speaker for giving me this opportunity to comment. First of all, I would like to thank the Chair PAIC and his team, the entire committee for having come out with this report, having to gone through the audit report of this Yatta and Water Company and come out with detailed report which we have before us today.

Madam Speaker, I only have very few issues of concern; the first one which caught my eye was the company assets. If you refer to 6.3 on the property, plant and equipment where they are recording the company has assets of only Ksh. 4,814 in their books; how can a whole company which is incurring up to debts of Ksh. 10 million and above from the previous observations, they are only having assets in their books of only Ksh. 4,800.

If you read below there, Madam Speaker, on 6.3.1 you find again there is an issue which has been raised of computers which were stolen from the office. Computers are assets so we are

having assets which are being stolen as computers but when you look at the books of account they only have Ksh. 4,814 worth of plant equipment.

Madam Speaker, what this simply means is that there is no proper accounting officer in this institution and that the recording of the company's transactions is definitely brought to question. We cannot have a company which does not have any recorded assets which is selling water, it has pipes it has tanks, it has offices, it has computers, and yet the net worth is Ksh. 4,800. Madam Speaker, in accounting even if the assets were fully depreciated, assets are maintained in the books at cost so that the original historical cost that is what is maintained as the assets in the books.

So, we should have been seeing the assets which this company acquired being recorded and the books properly reflected; the balance sheet of this company, Madam Speaker, I really would like to have a look at it because there is no way this balance sheet is balancing.

Madam Speaker, the other item which has also caught my eye is the issue of tax where we are saying that the company's financial year starts from 1st July and ends on 30th June whereas the income tax starts on 1st January and ends in 31st December. When you mix up your accounting reporting period and the income tax accounting period then there are chances, there are very high chances that you will miss out on deadlines because when it is time for them for you to be paying KRA, according to your calendar, you are not supposed to be paying.

So, in most cases you, are supposed to maintain your accounting cycle with in tandem with the Kenya Revenue Authority, the tax platform for which you are being audited. So if your tax platform is being January to December then you need to maintain your books of account from January to December so that you are going in tandem with Kenya Revenue Authority.

So, Madam Speaker, from what I have seeing on this report, it is that there is urgent need for this company to be able to engage people of knowledge in terms of accounting and financial matters are concerned so that they can be able to advise them. You can see in one of the responses there they are saying that on the issue of VAT they are saying that they want to engage a VAT consultant because water is zero-rated for VAT. If water is zero rated for VAT, why do you need a consultant? You don't need to pay tax; why would you engage a consultant of VAT to come and give you consultation on a product which is zero rated?

So, Madam Speaker there is need for further investigations in this and I will be requesting the Chair and his committee to further engage, if it is possible to further engage with the Chief Officers and the management of this company to see to it that they do get quality advice in terms of the way they are maintaining their books of account so that we can be able... it is a company which is running and it is a company which we expect to make returns from as a County.

This is a company which the County Government has invested in and if it has invested in this company then our expectations is that some returns need to come from it, but from the kind of management I can see it is being run on, then it will be very difficult for any meaningful thing to be gotten from this company. So, Madam Speaker, thank you very much I wish to lay my stand there. Thank you.

Hon. Speaker: Thank you, Hon. Museku. Hon. Kamulu, I will come to you Hon. Dominic.

Hon. Kalumu: Thank you, Madam Speaker. I would like to tackle few issues on the report of Yatta Water Company. Yatta Water Company is a continuation of the defunct Matuu

Town Council and to the best of my knowledge, it is true the company had bought some... Matuu had bought some asset and if they are not reflected there is....I would like to see that.

Another thing is Yatta water company started just the other day; it was formed just the other day when devolution started and their reporting saying that they are not compliant with taxes, one water is exempted from VAT but the company is not exempted from reporting when it' makes some profits, you need to report that profit to the relevant authorities. So, for me I will say that they need to engage the authority by KRA for them to be compliant in paying cooperate tax.

Another thing is I have read the report and it says that there was one time when the Yatta water canal was under construction; yes its true for about one year and half Yatta water was not flowing, the water was not flowing along the Yatta Canal and being one of the beneficiaries of the water, we requested for the bill to be done away with because we could not pay for anything that we did not use.

So far I have heard a contradiction whereby the water was flowing, it wasn't flowing I want to confirm to this House today that during the construction and improvement of Yatta canal, it could not support the growing of crops which make our people in Kithimani ward and Matuu ward to make profit.

The only flow was being released within a period of two weeks and that was the agreement so that animals and homes could fetch water so during that time actually, if it is a business, for example, if you have not sold anything there is nothing you can report. So, I would request this House to exonerate the blame from the company because that time I was there, I am a resident and the Yatta Canal flows just within my ward.

Yatta has several assets that needs to be looked at, that contradiction of TANATHI and this.....a clear guidance or let us say a meeting should be done between TANATHI and Yatta Water Company so that they may know what is their own asset so that they can be able to report their asset because there is no any company which runs without assets because if you don't have asset then you are dead; it is like a body without bones. Bones support the flesh and the asset support profit making flow of business.

So, Madam Speaker, it is the first time to hear that a company is running without assets. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kalumu. I may just need to throw some point here members about the business of water and the 2002 Water Act and the 2016 Water Act; I happened to interact with the process of water supply and what the laws envisages is a situation where, because of the water sector reforms that they came up with in 2002, is a situation where you have a water service board.

In our region we have the TANATHI Water Service Board; initially we were under the ATHI Water Service Board. So the boards are the ones who are supposed to own assets and indeed they are the ones who are supposed to improve on water infrastructure and the water companies are called water providers. Note that it can even be any other person or any other company not necessarily a company that is associated with the county government now. That time they were associated with the municipalities or the town councils.

However, even as we say that a water company *per se* does not own assets as such, definitely, it will have motor vehicles, it will have the computers, it will have even the seats that are used in the offices and those ones cannot be worth Ksh. 4,800 so clearly there is a good question the members are raising here.

Foremost to understand is that assets of any meaningful value would be owned by the water services board and in fact, the water services board is supposed to lease to the water company and any other water provider to lease the equipment even the piping, even the systems which they use to supply the water.

There is what they call rent which they pay to the water services board but may be those are dreams which have not been achieved and the water companies are ideally not to make profits as such' they are no profit-making and what they do whatever money they make of course which you can call "profit" is supposed to be ploughed back to improve and invest in water infrastructure.

So when we are debating this we also need to understand a bit of the law that governs the supply of water but definitely there are questions that the House is noting which need to be answered by this company as per this report. So, we can proceed, Hon. Members. Hon. Dominic.

Hon. Ndambuki: Thank you, Madam Speaker. I thank the committee on PAIC for the report they have brought about Yatta Water Company. Madam Speaker looking at the report, it paints a picture of a company whose management lacks basic skills on effective management of a company, Madam Speaker. Looking at the four areas of concern, that is the reporting of the Financial Statements on asset management all the way and the responses that the Company management gave, paints a picture of a team that is not so keen on managing resources that are meant for the people of Machakos.

If for example, the management cannot be able to account for very basic things that they have been task to handle, then Madam Speaker, it shows that the resources that are meant for the people of Machakos may not be able to yield the benefits that are meant for our people and us being the voices at the Assembly, then we need to voice our concerns to ensure that our people get what is meant to them.

My plea is to the concerned Department, the County Government that they are able to streamline all these bodies that are in charge of water provision to our people to ensure that the management that is there is up to the task and that they manage the resources that have been put under them. So, that Madam Speaker, we do not have unscrupulous people who will just want to benefit from the resources that are meant for our people and our people languish in poverty. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Dominic. Hon. Kisini.

Hon. Kisini: Thank you, Madam Speaker. I want to give honour to the Committee which has highlighted to us the status of affairs to this Company. Madam Speaker, my concern is about this provision of the doubtful debts they had recommended, it be treated as bad debts, an amount of Ksh. 10 million and so on. When you check the receivables were Ksh. 12 million and out of the Ksh. 12 million, Ksh. 7 million was paid to Yatta Canal and they talk of now having a shareholding meeting whereby they want to provide or they want bad debts to be declared as Ksh. 10 million.

If we allow Ksh. 10 million to go it is as if we want everybody to benefit in those sales; I do not know how much balance is being left. So, there is a concern there Madam Speaker, for that recommendation. The bank reconciliations also do not tally; they talk of Ksh. 62,000 and

they did not reconcile the books of accounts and the banking reconciliation is not tallying and then we also talk of the taxes, there was also an issue there.

So, I do not know if the reporting which is not giving us a fair view or a fair reporting and then when they talk of Ksh. 12 million, Ksh. 10 million and then the assets are Ksh. 4,000 so Madam Speaker, I am concerned about the reporting. Thank you, Madam Speaker.

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

Hon. Mitaa: Thank you, Madam Speaker. I first applaud the Public Accounts and Investments Committee for the good report they have brought to the House. Madam Speaker, the issue of Yatta Water Company, I think is something that we cannot just let it go because as you are aware the project is very important and we cannot live it or neglect it since it ensures that there is food security as well as providing employment to the unemployed youth in our Community and especially Yatta Sub-County. Madam Speaker, I am a frequent visitor to a place called Mamba and Mamba Village there are so many agricultural projects which are ongoing.

Hon. Speaker: Where is Mamba Village?

Hon. Mitaa: Mamba Village is in Kithimani Ward and there are so many commercial agricultural activities ongoing courtesy of this project and Madam Speaker, it pains when you read such a report that there is no income which is being generated and yet when you go on the ground, you can see activities going on. I must admit that this is the second incident I am coming across on projects within the County Government of Machakos, income-generating projects.

Recently me and my Committee, Agriculture, we visited Athi River Abattoir slaughter House and you visit such a facility, you find income which is being generated is only going to the Management which is operating the facility, Madam Speaker. I equate the same as happening in this institution and I think it is the right time we now hold management liable. How I wish we would now get a later report from the same Company, I have seen this for the year ended 2016.

How I wish we can get another one for the year 2017 and compare the two because my opinion is, we need to input, we need to get out of this Assembly and visit these facilities because maybe the Executive may not be able to trace or track events ongoing in such facilities but if Hon. Members, through relevant Committees, can frequently visit such facilities which are relevant to their departments, Madam Speaker, I believe results can be seen. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mitaa. Just as a House, I am just thinking, we are in 2019, actually, we are in Financial year now 2019/2020 and this is a report of the Financial Year ending 2016, June. So, we are dealing with history. What is the problem Hon. Musau? Have you reported in this House that we are discussing a report of so many years back? When shall we ever get the---

Hon. Musau: Madam Speaker, this Auditor's report landed on our desk very late but I assure this House that there is another report; a more current report on our desk right now.

Hon. Speaker: At how late? When did it come?

Hon. Musau: This one or the previous one?

Hon. Speaker: This current one. I know I committed it but I cannot have it in mind. Maybe when you do the report next time, just capture the dates of when you received, when it came, when it is committed and so on.

Hon. Musau: It came in late 2018, Madam Speaker.

Hon. Speaker: In late 2018?

Hon. Musau: Yes.

Hon. Speaker: So, yourself you have also delayed because under the Constitution, Article 228, you are supposed to deliberate and it be presented.....the House is supposed to debate on it within three months. So, late 2018 and now, is quite a number of months. Is it not? Hon. Mutiso, may want to make a comment. I notice you are a Member of that Committee.

Hon. P. J. Mutiso: Thank you, Madam Speaker. I wanted to add some information on it that the Company had some information that they had not given us so we requested them to furnish us with some statements and also documents.

Hon. Speaker: So, they delayed?

Hon. P. Mutiso: Yes they delayed and even the Auditor from the Auditor General---

Hon. Speaker: You summoned them I notice.

Hon. P. J. Mutiso: Yes. So, they delayed and so it was not our fault it was their fault.

Hon. Speaker: In principle Members, can we agree that we must comply with Article 229(8) of the Constitution, that within three months after receiving an Audit report, the Parliament or the County Assembly shall debate, the word is 'shall.' We have no way out. Not 'will' or 'may' but shall debate and consider the report and take appropriate action.

So, what we need to do Hon. Musau, going forward, the Committee really is the watchdog, is the Assembly's watchdog; when you get this report, can you try and meet this period of three months so that the report is debated by this House and passed within that period and then, of course, the appropriate action taken. I was in a sitting where Senator Kajwang was.....you know the Committee that he chairs in the Senate and he was saying that if we do not check County Assemblies and even Parliament itself maybe opening itself to even some action being taken against you for failing to do your work.

You are supposed to do it within three months so that if you summon any of the people who are supposed to present the report before you and they do not appear, give them the necessary warnings and if need be even issue summons. If they finally do not come, then make the report without them and of course, you make a comment that they did not attend to give the

information so that they also do not pull you back; they do not make you break the Constitutional provisions of Article 229(8). It just caught my eyes.

So, the others which are pending, there are a number of reports that are pending in your Committee from the Auditor General. Let them come as quickly as possible so that we do not continue breaching the Constitution. Hon. Kamitu. I will come to you Hon. Cosmus. Hon. Kamitu.

Hon. Kamitu: Thank you very much, Madam Speaker. Madam Speaker, I have gone through the report and in a summary form Madam Speaker, it is really pathetic that an institution, a Company that does not even have reports of its own because where Government institutions are run, there are those quarterly, yearly reports and in this report there is nowhere it is indicating that for this Company.

Also what Hon. Moses and Hon. Ndambuki were saying is that there is poor management of this Company even to a degree of the Company offices being broken into, assets were stolen and there is also a report indicated in that report by the Public Investments that there were criminal investigative officers involved and the report up to now we may say up to now there is nothing that came up of what were the results of the investigations and my worry is, in the recommendation, we are talking of the County Government funding such a noble Company because when we are talking about Companies that are water providers, as you know Madam Speaker, we are aware that, water is life.

So, if we are going to make further donations or further funding by the County Government to this Water Company, my recommendation or my opinion is that, as you said, it is important also up to date we check what the current status of this Yatta Water Company is before we do the funding. Those are my observations and recommendations. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Minority Leader. Hon. Cosmus Masesi.

Hon. Masesi: Thank you, Madam Speaker. First and foremost, I would like to appreciate the PAIC Committee for this report. Madam Speaker, my concern is for us as elected leaders just sitting and watching Boards of Management coming and mismanaging the public money and we just let them go. I am just trying to imagine how a Board can come and accrue that amount of money as a debt which means obviously there was some business which was going on and then at the end of the day, what normally happens is coming and electing another Board in place. Just letting that Board go freely.

Madam Speaker, I have witnessed the County Government of Machakos making some arrests. We need to move fast and arrest and recommend to the EACC to take action and these Boards of Management be brought into book. Madam Speaker, again, we need to come with some by-laws for these Companies; there must be how the legality of these Boards, the duration one has to be in office.

I am trying to take the case with another one in our Matungulu Sub-County, whereby we had some mismanagement of one Kwa Mating'i Farm and a debt of more than Ksh. 150 million has been accrued, the Board has just been.....there has been some re-election and the Board has just gone away. No accountability at all, Madam Speaker. My take is that we need to come up with some by-laws to govern these Boards and make sure that the culprits are brought to book. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Cosmus Masesi. May the Mover of the Motion reply? Hon. Wambua.

Hon. Musau: Thank you, Madam Speaker. May on the behalf of the Committee and my own behalf thank the whole House for appreciating the work done by the Committee. Again may I thank them for keenly following the report and especially noting that this is a 2016 report. If this Financial Year ended on 30th June, 2016, Madam Speaker, and the report was made to the Auditor General, then this report could have come in January or February 2017 when the other House was still sitting, Madam Speaker.

So, it is good that Hon. House you have realized, what we as the PAIC Committee undergo and so many reports the committee is facing such hitches. We ask for this and that and it is provided very late but we shall liaise with your office and do what is necessary for us to do our work. Thank you, very much Hon. Members, thank you very much, Madam Speaker.

Hon. Speaker: Thank you, Hon. Musau.

(Question put and agreed to)

(Applause)

ADJOURNMENT

Hon. Speaker: Hon. Members, this marks the end of the morning sitting for today. The House will adjourn and it will resume its sittings on the 9th day of July 2019 at 2.30 p.m. That is today in the afternoon. Have a good afternoon, Members.

The House rose at 12.41 p.m.