

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 16th April, 2024

The House met at 10.52 a.m.

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

PRAYERS

Hon. Speaker: Good morning Hon. Members. Good morning once again?

Hon. Members: Good morning.

Hon. Speaker: Why are you dull? You should always be thankful to God and be bright. So welcome to today's sitting. We can start off Mr. Clerk.

PAPERS LAID

FINANCIAL STATEMENTS OF THREE
WATER COMPANIES IN MACHAKOS COUNTY

Hon. Speaker: May I invite Hon. Nicholas Nzioka, Leader of Majority, to come forward and present those papers.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Hon. Speaker, I wish to lay the following papers on the table of the Assembly today, Tuesday 16th April, 2024; Reports of the Auditor General on:

1. Kathiani Water and Sanitation Company Limited for the Year ended 30th June, 2023;
2. Matungulu-Kangundo Water and Sewerage Company Limited for the year ended 30th June, 2023;
3. Municipal Council of Machakos Water and Sewerage Company Limited for the year ended 30th June, 2023;
4. Mwala Water and Sanitation Company Limited for the year ended 30th June, 2023;

Thank you, Madam Speaker.

(The Papers were laid on the Table)

Hon. Speaker: Thank you, Hon. Member. The Papers are committed to Public Account and Investments committee. Thank you. Next order.

STATEMENT REPLY
SAFETY OF WORKERS AT GOLDEN AFRICA COMPANY

Hon. Speaker: We have a response to a statement that was sought on safety of workers at Golden Africa Company that was sought by Hon. Maitha, to be responded by Hon. Joshua Mwonga. Therefore, I invite Hon. Joshua Mwonga to come forward.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Hon. Speaker, on Tuesday 25th July, 2023 during the morning plenary sitting, a statement was sought on safety of workers at Golden Africa Company (K) Ltd (Annexure 1).

The Statement was referred to the Labour, Public Service and ICT Committee to inquire on what the County Government of Machakos has done to ensure adherence to safety requirements of employees while in the said factory, noting that on 23rd December, 2022, three workers of Golden Africa (K) Ltd in Mavoko Sub-county died while cleaning the plant's septic tank which had a surge.

Hon. Speaker, the committee engaged the Chief Officer, Department of Public Service and Performance Management on the sought statement on 25th September, 2023, vide a letter Ref: MKSCA/PCS/LPSICT/VOL.4/48 (Annexure 2). The committee intended to gather any relevant laws, regulations, and policies pertaining to Occupational Health and Safety within Machakos County, including any specific county-level regulations that private companies are required to adhere to as well as details of the government agencies responsible for overseeing and enforcing Occupational Health and Safety regulations at both the county and national levels.

The Department of Public Service and Performance Management responded on 26th October, 2023 through a letter Ref. MCG/PSPM/MKSCA/VOL.1/11 by informing the committee that the department was not aware of the incidence and would enquire and provide feedback from the Directorate of Occupational Safety and Health Services (Annexure 3).

Hon. Speaker, on 27th September, 2023 through a letter Ref: MCG/PSPM/DOSHS/Vol.1/01, the Department of Public Service and Performance Management sought guidance on the matter from the Directorate Occupational Safety and Health Services (Annexure 4).

Hon. Speaker, the guidance from Directorate Occupational Safety and Health Services was forwarded by the Chief Officer, Public Service and Performance Management to the Assembly on 4th December, 2023 through a letter Ref. MCG/PSPM/MKSCA/VOL.1/13 which stated as follows:

1. That the Directorate of Occupational Safety and Health Services is a department in the Ministry of labour and Social Protection. The mandate of the departments is drawn from two acts of parliament namely:
 - i. The Occupational Safety and Health Act 2007;
 - ii. The work injury Benefit Act 2007
2. The Objectives of the Department are:
 - i. Promotion of occupational safety and health in the workplace through trainings.
 - ii. Ensure safety and health at the workplace by carrying out systematic inspections.
 - iii. To ensure compliance with Occupational Safety and Health Act (OSHA) 2007.

- iv. To ensure compliance with Work Injury Benefit Act (WIBA) 2007.
- v. Ensure workers health through occupational medical examinations.
- vi. Ensure just compensation for occupational injuries and diseases.
- vii. Ensure workplace machines and plants safety through examinations and testing
- viii. To ensure coordinate of Occupational Safety and Health (OSH) system, activity and services.
- ix. To investigate occupational accidents and incidences.
- x. To provide research and training in Occupational Safety and Health.
- xi. Monitoring workplace conditions and ensuring control through hygiene measurements.

The hierarchy of Safety and Health at Golden Africa Kenya Limited is as highlighted below:

1. Engineering controls

After the accident that happened on 23rd December 2022, the top cover of the manhole was redesigned in a manner that manhole cover is no longer made of flat iron sheet but instead it is a spaced iron plates which allows air circulation.

The manhole is at a raised platform above the ground hence the wall that is exposed to the environment has a vertical dimension on which the vents have been created on its higher part just before the flat surface of the manhole to allow in air circulation.

The company has also showed continual improvement by purchasing the air quality measurements metre. This offers the.....Madam Speaker, next time I would wish the desk office to make these letters bold; it appears I am getting old.

Hon. Speaker: I am sorry about that natural occurrence.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Thank you, my brother has come to my rescue. The company has also showed continual improvement by purchasing the air quality measurements metre. This offers the readings of the levels of the following gases: oxygen, carbon monoxide, carbon dioxide, sulfur dioxide, and ammonia present in the specific workplaces. This is to avoid workers suffering from asphyxia.

2. Administration

The Safety and Health committee is in existence and has been trained on their functions and safety precautions within the company. The safety and health audit has been carried out.

The work procedure has changed to an extent that no employed persons/worker is to enter that confined space. For any operation to take place at the confined space, there must be permit to work system deployed.

3. Personal Protective Equipment (PPE)

The PPEs have been provided. However, the engineering control and administration procedures must be put in place first. This is in their company safety and health policy

Conclusion

- i. According to the hierarchy of safety and health measures and the current prevailing safety precautions that are in place at Golden Africa Kenya Limited, the workplace meets requirements of the Occupational Safety and Health Act (OSHA 2007).
- ii. Acknowledgement that there is a valid claim for work injury benefits payment for employees of Golden Africa Kenya Limited namely James Nyongesa Wanjala, Stephen Okoth Otieno and Matthew Kiprotich who lost their lives in a fatal accident that happened on 23rd December 2022.

I am through Madam Speaker. Thank you.

Hon. Speaker: Thank you very much, Hon. Mwonga. Next time you will get yourself spectacles to be able to read through but we are grateful. Members, before I call upon Hon. Maitha to tell us whether he is satisfied with the response given by Hon. Mwonga I want to invite Members to make their comments on this response. Hon. Members the floor is yours. Hon. Kavyu.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker. It is just a point of information. Should we not start by responding whether he is comfortable because we might give our comments then the seeker of the statement is not satisfied. Maybe you can provide guidance on the same. Thank you.

Hon. Speaker: Maybe then let me invite Hon. Maitha to come forward and inform the House whether he is satisfied or not.

Hon. Dominic Maitha (Muthwani, WDM-K): Madam Speaker, traditionally as it is everywhere, once a statement has been put, we get the input from Members and then the seeker of the statement responds. That is the position.

Hon. Speaker: That is also why I was doing it that way.

Hon. Dominic Maitha (Muthwani, WDM-K): You are in order Madam Speaker.

Hon. Speaker: Thank you, Hon. Maitha. Therefore, Hon. Members let us comment on this safety matter that is very important to our people and worker. Hon. Leader of Majority.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I want to first of all to thank Hon. Dominic Maitha for seeking the statement because it shows that he has the interest of the workers working in our factories at heart. I also want to say that by reading the conclusion by the Hon. Joshua Mwonga, I saw that there is a valid claim for loss of life and I hope the factory makes good its compensation so that the beneficiaries can be compensated for the loss of their family members. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Majority Leader. Hon. Members let us comment on this very important matter. Hon. Ndawa.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you, Madam Speaker. My first concern is the time taken between the time a statement is sought and the time we are getting the response. If you refer to the date when the statement was sought, it was last year and we are now past mid-April.

Madam Speaker, I would request that we consult our Standing Orders to confirm what is the duration given for statement to be answered and Hon. Speaker, a statement is usually meant to get answers to questions that are not clear, and if the answers are not brought in good time, the intention or the theme of the statement may be lost. Madam Speaker, that concern needs to be addressed.

Secondly, there is a statement used there, asphyxiant. Hon. Speaker, this is a word from what we call asphyxia. In medical terms, this is a situation whereby the brain cannot get oxygen due to strangulation and the word, the way it is used in this statement, to me it is not clear and I do not understand why they used that word because if you are talking about pollution, the issue of strangulation does not reflect anywhere. It is in the statement I do not know whether you have seen it.

Hon. Speaker: I have seen it when Hon. Mwonga was reading, now I cannot see it. I think I also need a set of spectacles, but I know it is there maybe clerk could direct me where it is. I am there Hon. Members.

Hon. Mbili Ndawa (Matuu, MCCP): Asphyxia.

Hon. Speaker: Asphyxia is like a disease or what is it?

Hon. Mbili Ndawa (Matuu, MCCP): From where I stand, that word is what we call asphyxia in medical terms for those who have done medical courses. It is a situation whereby there is blockage of oxygen. The brain cannot receive oxygen and that is the moment when the person dies.

If you put a polythene bag on your head, it will prevent oxygen from getting to your respiratory system and you will suffer what we call asphyxia. If you are also choked, you can also suffer the same, so I do not know why they are using this term.

We are very much keen on the statements and the business that is brought before the House. Let the one who is bringing a report here be more conscious because we have learned people in this House and we cannot use words to try to negate from whatever you were supposed to give. Hon. Speaker, my concern was those two issues.

Hon. Speaker: Okay, point of information taken.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Thank you, Madam Speaker. I have carefully listened to the explanation by the Leader of Minority but the meaning of the word is not far from what it was intended to mean.

Madam Speaker, the Leader of Minority says that the word means strangulation, if it means that it is true. When these three workers entered into the manhole where there was surge, they were struggling for air, that is according to what he has said. They died because they were struggling to get fresh air. It is not that they drowned in the surge; that was not the case. That is what we got as a Committee. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member for that comment.

Hon. Mbili Ndawa (Matuu, MCCC): Madam Speaker and thank you, Hon. Mwonga and before we finish this statement, we recommend you to go and have your eyes checked properly so that in future when you are tabling a report here, you are not struggling. You tried your level best but we recommend because you have an insurance that can give you specs, I have mine here, please make sure your eye are checked.

Hon. Speaker, from what you have been told, if those employees sank in a manhole, what is contained in a manhole, Hon. Speaker, is liquid waste.

Hon. Speaker: Correct.

Hon. Mbili Ndawa (Matuu, MCCC): If you die of taking that liquid waste, that is what we call drowning. There are words which are used in medical which are very different. If you are burnt by water or hot liquid we cannot say you suffered burns; that is not correct. We say that somebody had a scald. Scald is caused by hot liquid; a burn is caused by dry heat. Let us differentiate between the two terms. The issue of asphyxia cannot come in and cannot work in this. Thank you.

Hon. Speaker: Thank you, Hon. Member. I tend to think that in the manner this word has been used could be fitting under these circumstances. The reason is that this statement is trying to show us the controls that have been made by this company to ensure safety. When they say they have redesigned this manhole to allow air to come in, they have removed the iron sheet that cannot allow air to come in, they are just trying to tell us the measures they have undertaken to ensure safety and then they go ahead to talk about this situation which could arise if measures are not taken. They are saying the company has also showed continual improvement by purchasing the air quality measurements metre. This offers the readings of the following gases: oxygen, carbon dioxide, carbon monoxide, sulphur dioxide and ammonia present in the specific workplaces.

All this is to avoid a situation that they are calling asphyxia. So, if it occurs as a result of strangulation and blockage of brain such that it does not get the oxygen, then this word is in the right place. Yes, well guided? Thank you very much, let us proceed. Could I have more contributions? Hon. Kavyu.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker. Thank you for guiding the Hon. Members because the company in question is located within my Ward. On the fateful day when the accident occurred, I had the opportunity to be among the first responders who went to the scene.

I can also confirm that the word is correctly used, not only in the context of the measures that have been taken, but the deceased died because of oxygen deprivation. When they got into

the manhole, they could not get enough supply of oxygen. I think that is where the Committee is coming from; that was the actual cause of the death.

I think this should also serve as an example because the people in charge of safety in terms of employees and even company operations need to be on top of their gear because what happened in Golden Africa is just an example of what could go wrong because the people who went there and did inspection and granted a certificate of inspection confirming that all safety measures have been met, if they were thorough in their work, maybe today the three gentlemen who lost their lives could still be alive and contributing in the nation building.

Despite the fact that Golden Africa has taken the corrective measures, I also want to challenge the concerned parties to go around all the other factories within Machakos County and check to ensure that all safety gaps that are existing are addressed. What we are doing today are reactive measures and the biggest challenge that we have been suffering is because we have people who have been employed to undertake specific mandate but they never do their job to the best that is required. Most of them walk to these factories with a mentality of what they are going to get at the end of the day.

Therefore, the committee, I don't know whether it's the committee on Labor or the committee on Environment, we also need to come up with a plan that every year after the inspection department has done their bit, that Committee needs to go and confirm that indeed all measures have been put in place. It is not only in terms of employee safety, we are also having challenges in terms of environmental pollution. That is an area that has been neglected and it is something that we need to take up as an Assembly and ensure that the safety of our people is guaranteed. We do not wish to have a repeat of the same.

Also to make a request in future, if the Member of the area is not part of the committee that is visiting a particular Ward, it would be prudent that the Member for that Ward is invited to be part of that team. Golden Africa being in my ward, I would have appreciated if the Committee found it good to invite me so that we could also visit and engage on the fact finding mission together, because most of the people who work there live and also come from my ward. It was in my interest also to accompany the team and assess the level of safety that has been put in place. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon Member. I want to believe that it is always important to involve the Member of the County Assembly in a particular area where the Committee is doing some fact-finding mission. Going forward, let us have Members involved. More contributions if any? Hon. Mwonga.

Hon. Joshua Mwonga (Masinga Central, WDM-K): On the issue which has been raised by Hon. Kavyu, sometimes you find that it is an issue which has been raised by a Member of that particular area where the Committee will be visiting to investigate. Will it not sometimes bring conflict of interest? Taking an example it is me who has raised an issue concerning an issue in my ward. I am not trying to say we should not be invited but sometimes maybe there could be issues which could bring about conflict of interest.

Hon. Speaker: Give an example because we are all geared to making sure our people are safe. Where is the conflict coming in?

Hon. Joshua Mwonga (Masinga Central, WDM-K): I am not talking about the area of safety like the one we visited at Golden Africa. Maybe it is another issue which you clearly see will have some conflict of interest like a committee visiting Masinga Central ward because of an issue which I had raised and the same issue maybe they are going to get views from Members of my ward, that is the people and the residents of the ward had an issue raised maybe about the Executive. When the Committee goes there and I am present and I want them to come up with a report which is somehow trying to vindicate me on the issues I was raising. I think Madam Speaker sometimes we should be checking whether---

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

Hon. Speaker: Before the point of information I just want to say that I do not see anywhere where conflict can arise. We are all geared towards the same goals: welfare, safety, development, whatever it is. The Member of the County Assembly is doing the same thing that the Committee should be doing, so there can never be a conflict.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker, I do not say I will fight until tomorrow. I retract my opinion and my thinking. Thank you.

Hon. Speaker: You withdraw?

Hon. Joshua Mwonga (Masinga Central, WDM-K): Yes.

Hon. Speaker: Let me allow Members to comment on it whether you have withdrawn or not. Continue Hon. Ndawa then Mheshimiwa Katiti after that.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Hon. Speaker. If you allow that to happen, you will be depriving these Hon. Members to contribute on issues which are in their respective wards.

Hon. Speaker, it is only fair, if a committee is retreating to ward A, B or Z, it is only fair to inform and involve the Member representing that particular ward. Otherwise, we will open a chance whereby I will be handling issues which are not concerning my ward elsewhere while Members of Committee A are in Matuu Ward trying to get information and maybe I have more information than the electorate you are going to seek from.

Hon. Speaker, it is only fair, and that one should never be allowed to happen for Hon. Members to be denied that chance. Again, Hon. Speaker, I would request once a statement is sought here and a response has been brought before the House, I would request that the responsible Committee bringing the report, should also go back, because some of the reports are written but we have not visited the site to confirm whether what is in paper is exactly what is on the ground. I would request we also consider, especially the written reports.

Hon. Speaker: Point of order given.

Hon. Dominic Maitha (Muthwani, WDM-K): Madam Speaker, it is quite unfortunate that a senior Hon. Ranking Member is trying to mislead this House; trying to indicate that we are being brought reports that have not been researched yet the Assembly, through your office, is

facilitating Members to go and compile reports. It is quite unfortunate and uncalled for Madam Speaker. He should withdraw that statement Madam Speaker. He is out of order.

Hon. Mbili Ndawa (Matuu, MCCC): Hon. Speaker, if I withdraw that statement, I will be the most stupid person in this House and the reason is, one of the steps that we used to undertake in these site visits, we write to the department to get information. Between the time we go and the time we report back to the Assembly, there is a long time. Like now we are talking of something which was sought in December last year and it is now five months down the line and things might have changed.

Hon. Speaker: I think it was July.

Hon. Mbili Ndawa (Matuu, MCCC): Yes, July. So things might have changed.

Hon. Speaker: Point of information taken.

Hon. Dominic Maitha (Muthwani, WDM-K): Madam Speaker, he already raised the issue of timelines that I was supposed to respond to. The issue I am saying is out of order is when he says that committees are bringing reports that have just being written. Madam Speaker, this committee went to the ground; it visited the factory. Does this mean all reports that are coming in this House from Committees are done without visiting the site, yet Members are being paid for site visit?

Hon. Speaker: I think you misunderstood the Member. What he was saying is, once we are done like today we bring a statement here for response, we go back and bring a report of whether that has been implemented. Am I right? That is something we can just agree; is it okay the committee to be going back to check whether the report they brought has been implemented or is taking place? Members do we agree that we can have committees going back? [Is it in order? It is in order. So unless I am wrong and I don't think I am wrong, that was the point.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker, I do not want to say you misunderstood him. What is being raised by Hon. Dominic Maitha is exactly what the leader of Minority was trying to insinuate. He was saying that committees are bringing reports here having not done thorough investigation and research. He did not talk on the part of implementing about the statement after it has been read. That is what he was raising.

Hon. Speaker: I am the Speaker, what I heard is right. I think I heard right.

Hon. Mbili Ndawa (Matuu, MCCC): Yes, you are correct.

Hon. Speaker: Yes, and I am being supported by so many Members. So, it is feedback or getting to check whether that work is actually taking place the way they have put it in the paper. That is how I understood it. We are in consensus that we shall be going to check whether that work is taking place the way it should. Members, can we now debate on something else. Mheshimiwa Katiti, then Mheshimiwa Kavyu.

Hon. Boniface Katiti (Muthetheni, UDA): Thank you, Madam Speaker. I have gone through the statement and I have not seen the recommendation where because there were lives that were lost, I am still feeling for the families that lost their loved ones, I have not seen a recommendation where there is workmanship compensation that is, vicarious liability has not been taken care of.

Hon. Speaker: It is recommendation number two. It has taken care of that.

Hon. Boniface Katiti (Muthetheni, UDA): Okay. The other thing on going back to revisit the sites is paramount because we must evaluate the progress of the companies that is in operation. So, I do support the---

Hon. Speaker: The fact that they should go back?

Hon. Boniface Katiti (Muthetheni, UDA): Yes.

Hon. Speaker: Thank you, Hon. Member. Hon. Kavyu then Hon. Mary.

Hon. Mary Kituku (Nominated, UDA): Point of information Madam Speaker. Hon. Kavyu cannot contribute twice.

Hon. Francis Kavyu (Kinanie, MCCP): I am on a point of information, I am not contributing.

Hon. Speaker: It is a point of information; I am the one who made a mistake to call him after the informant had finished.

Hon. Mbili Ndawa (Matuu, MCCP): And again Madam Speaker, it is only motions. The Standing Orders say you cannot speak twice on a motion; this is not a motion.

Hon. Speaker: Okay, well guided. We are in a learning process. Proceed, Hon. Kavyu.

Hon. Francis Kavyu (Kinanie, MCCP): It was an addition and clarity on what Hon. Maitha raised. It is quite in order because what the Chairperson of the committee read was part of the response from the department and there is nothing wrong Hon. Maitha for the Committee to go back and ascertain whether the recommendations and controls that have been given or highlighted to have been taken is actually what is on the ground.

On the issue of conflict of interest, I represent people from Kinanie and Golden Africa is part of those persons I represent. I would imagine, for example in Masinga Central if the KENGEN project is affecting the people and we fail to invite Hon. Mwonga when we are going there on the account that there will be conflict of interest, we are here to serve the interests of our people and maybe in future he can clarify what interests he was referring to because our only interest is to represent our people, businesses and even animals within Kinanie ward, I am their representative.

I do not know what interests he was talking about. It is important that in future when we are going to any particular ward, the host should be accorded an opportunity be part of that team. Thank you.

Hon. Speaker: Thank you very much, Hon. Kavyu. Hon. Mary proceed.

Hon. Mary Kituku (Nominated, UDA): Thank you, Madam Speaker. I would have wished you could have caught my hand before Hon. Kavyu because he tends to read my mind every time he makes a contribution. All my points disappear because---

Hon. Speaker: I will be calling you before Hon. Kavyu

(Laughter)

Hon. Speaker: You can pre-empt his.

Hon. Mary Kituku (Nominated, UDA): Thank you, Madam Speaker. This response is satisfactory. However, I have a query. The Safety and Health Audit was carried once and this is a company which works with bolts and machines, which tends to go loose. My query is, how many times do they carry out the same and how many other companies have the same issues that have not yet erupted and what can we do as a County Government to ensure that our people in all the companies never have to undergo the same? Thank you, Madam Speaker.

Hon. Speaker: Thank you, very much Hon. Mary. Before we move forward, I wish to ask Hon. Mwonga to respond on the issue of time taken or passed since the statement was sought by Hon. Maitha. Why has it taken so long for it to be responded to and what are the challenges?

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker, the issue of statements taking long before they are responded to is not the failure of the Chair, neither the failure of the committee. Remember when you refer a statement to a certain committee, there is a secretariat and a department which is responsible for that particular statement which has been sought. I want to be categorical that it is not the failure of the committees which actually you are the Chair, because you are the Chair of all committees it's only that you delegate because you cannot sit in each and every committee. The committees do their work, but the failure is on the departments which take a lot of time to respond.

Madam Speaker, if you look at our statement, there are about three to four responses and requests to that particular department to furnish us with information or appear before the committee. That is why these statements are taking long and it is not only in the Labor Committee. Madam Speaker, I want to remind you of a statement which I sought last year about seedlings in Masinga and up to date, the same statement has not been brought and we are in another year and the rains are here and I sought a statement for last season, Madam Speaker. It is not our failure; it is the failure of the departments.

Hon. Speaker: Yes point of information.

Hon. Catherine Mutio (Nominated, WDM-K): Thank you Madam Speaker. I just want to instruct my neighbor and my brother, *Mheshimiwa* Mwonga, we are dealing with the statement on the matter sought by Hon. Maitha we are not on the Agriculture committee. Can you give us time? When that statement will be tabled, we are going to give you feedback. Thank you.

Hon. Speaker: It was purely an example.

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

Hon. Speaker: Yes Hon.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Hon. Speaker. I want to inform the Hon. Member, who is the Chair of Labour, that in case there is a delay, there is a window for the Chair to request for extension and for that matter, the committee and the Chair never requested for any extension, so it was just a deliberate delay.

Second point, if a Member is asked to explain about something, there is no need of going to another item which is not before the House. We address the matter before the House and the question was very simple---

Hon. Speaker: To me, that was just using it as an example to show sometimes it can take time.

Hon. Mbili Ndawa (Matuu, MCCC): So, the question was, why this delay? That is what we expect to hear from the Chair.

Hon. Speaker: He has already responded and said that the delay is not on the part of the Committee. It is the department concerned that has not been responding to their invitation to the Committee. But I want us to discuss how to go about that delay.

Hon. Francis Kavyu (Kinanie, MCCC): Point of information.

Hon. Speaker: Point of information taken, Hon. Kavyu.

Hon. Francis Kavyu (Kinanie, MCCC): I think Madam Speaker, we need to be objective. The report has been brought and the most important thing is whether the objective was achieved.

Secondly, there might have been a delay but if my memory serves me right, and we can confirm that from the Clerks, this report there was a time the committee tabled but the seeker of the statement was not available in the House so, as a House we requested the report to be deferred until when the seeker will be available and that is the basis on which the report was deferred back. There might have been delay but it is also fair that we do not crucify the committee because they made an effort. I think immediately we resumed back in February, this report was tabled, but the seeker of the statement was not available at that time.

Hon. Speaker: Then that is an important point that the response cannot be read in the absence of the seeker of the statement, but going forward, I think when delays are from the department, it is important to remind them and ask for these extensions. Also, make an effort of making sure they bring those reports as a matter of urgency. I think there are methods and mechanisms to do so. Thank you, Hon. Members. May I now invite Hon. Maitha to come and inform the House whether he is satisfied or not.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker. I want to take this opportunity to thank the committee for the work they did to bring this statement into effect and maybe try to make a few observations that have been raised by the Members and I want the Hon. Members to understand that that this House is meant to come with solutions, proposals, ideas on how we can perfect the lives of the people who brought us into this Assembly. We are not in any way fighting who is supposed to have delivered the report, the timelines and what not; it is the duty we are called to do.

Madam Speaker, a few issues that have been raised is one, timelines. Madam Speaker, we do not need to labor so much on this; the Standing Orders are very clear. It is not only this statement that is hanging. There are so many of them that are hanging in different committees and not just statements but also reports and resolutions that were passed by this Assembly and committed to various committees and they are already sell-by date.

I want to give a practical example where the Hon. Minority Leader brought a motion about the status of Matuu Level IV Hospital and Madam Speaker it is more than one year down the line and we have tried to come to a level playing ground with this information but it is becoming quite difficult. Let us just invoke the Standing Orders and I want to call upon---

Hon. Speaker: What do they say?

Hon. Dominic Maitha (Muthwani, WDM-K): Whenever we are given postponements, we are told there are no budgets, when we give budgets now we are told they are awaiting approvals and a lot of excuses, Madam Speaker.

What I want to say, we need to understand what a statement is. It is a matter of urgency that needs to be addressed within the shortest time possible. For example, last night it rained heavily and the Hon. Deputy Speaker can confirm, if it happens to rain again tonight, those of us coming from Nairobi using Mlolongo, we may not be able to access this side. River Athi is almost 95 per cent full. Once a Member seeks a statement on what the County Government is doing to improve the drainage systems within any ward in Machakos County, then that means that Hon. Member is seeking an immediate mitigation to that problem, so that Member should be responded to within the shortest time possible.

If Mheshimiwa Kavyu, for example, seeks a statement to know what the County Government is planning to do to ensure that residents of Kimongo are not marooned by the excess waters, he means good for his people. He cannot be responded that statement in August yet the rains are gone. A statement is a matter of urgency, so what I am trying to implore is that we need to invoke our Standing Orders so that we can try to clear the backlog in committees. Madam Speaker, I thank God---

Hon. Speaker: You have not yet answered my question. What do those Standing Orders say concerning timelines?

Hon. Dominic Maitha (Muthwani, WDM-K): Standing Orders are very clear about statements. Once a statement has been committed to a certain committee, it depends on the direction that the Speaker gives, because the response to a statement or any query in this Assembly is usually a direction of the Speaker and that is why you say, ‘I direct that this statement be taken to the committee of Labour and a response should be given within two weeks.’

So, whatever the Speaker has said as per Standing Order 1, takes precedence over everything. Standing Order 1 is very clear; any matter the Speaker will give direction that is not provided for in the Standing Orders. Once the Speaker says it should be delivered in two weeks, under whatever circumstances, the committee under which that business has been committed to should work within those two weeks and ensure that within two weeks, they deliver the report as per your direction.

In the event it is not possible, then the relevant chair or clerk is supposed to seek further extension through your office. It is as simple as that, Madam Speaker. Let us be guided by Standing Orders and the Standing Orders are very clear, it not only in this statement; it is even in all other businesses that are ongoing in committees. So that is one is point home.

Hon. Speaker: The reason I was asking you that question is because I want Members and committees to invoke the Standing Orders clearly so that we do not have delays for purposes that are urgent matters. So let us invoke those Standing Orders and move faster. That is all I wanted you to clarify to the Members so that we do not keep on going back and forth, Hon. Members. Proceed, Hon. Members.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker. This is crosscutting in all committees even on other businesses that we are doing in other committees. If at all we invoke our Standing Orders, we will not have problems in the Assembly.

I have also noted that at the moment we have the doctors’ strike and it is unfortunate because we are missing doctors in our hospitals and I am convinced that the Hon. Minority Leader seems to be a medic so he may need to extend his services to Machakos Level Hospital unless he is a street doctor because he has given wider explanation of the very technical word that has been used. Thank you Madam Speaker, through the Minority Leader, for that information. At the end of the day, having this information really helps a lot, so thank you for that observation.

The other thing that the Minority Leader is trying to say is the issue of Members owning up to information regarding what is being done in committees. It is very critical that any member of any committee is very conversant with any report or any information that happens in committees and this will only happen when Members commit themselves to committee. I want to say that I plead with Members that we continue committing ourselves to committees so that we can have timely delivery of report, timely ownership and information over a matter that has been referred.

Finally, the committee went to the ground and before I finalize, Hon. Kavyu has requested that, even the day when Madam Speaker, we were going to Kinanie ward to visit Golden Africa, unless the secretariat forgot, we proposed that the Hon. Member be invited and this is not a request, it is a requirement and actually not a requirement; it is respect.

Last week, Madam Speaker, we had the privilege of being visited by Hon. Members from Kiambu who wanted to benchmark on various projects within our ward. What did we do? I personally called Hon. Kisila, and he can attest, because we were visiting his ward, so that he can guide us on how we need to go about it.

The committee on Environment sometimes back visited Kalama Ward, where we had gone to see a certain dam there. We called Hon. Maeke and he gave us a guideline. Last time we went to Kwa Katusya dam which is in Mbiuni ward, we called Mheshimiwa PK and Madam Speaker, I can tell you some of these Hon. Members when we even call them they are very generous; they even buy lunch for the committee---

Hon. Speaker: Wow, that is nice.

Hon. Dominic Maitha (Muthwani, WDM-K): So, I wish every Member would invoke that and know that it is respect; it is very unfortunate that you would visit a fellow Hon. Member's ward and fail to inform that Member. Not even attending committee business; even attending a function. On Saturday for example, if I have a function, like I will be attending a wedding in Kinanie ward, it is good the Hon. Member is aware and any other Member because in the event of anything, then you will be calling that Member telling him I am marooned somewhere I came in the course of the day and I do not know which way to exit. It is very respectful, Hon. Members, so try to inform Hon. Members because it is only a matter of respect.

Finally, I am contented with the outcome of the committee. The company showed interest in resolving the issues and the issues that have been raised are very critical and have underlined, so what I would request is that whenever such kind of reports need follow up, then the relevant sectoral committee can then proceed and do follow-ups and ensure that whatever was promised by the relevant company has been met. This can only happen with the help of the Secretariat.

Madam Speaker, these Hon. Members are so much overwhelmed by the responsibilities in our wards so at times we might not recall that we brought a report here that needed a follow-up, so I request through the Committee Services that Members be given reminders that on a certain date, you brought this report and the report said this and that then you can revisit and see whether such information or such commitment was made.

Once such is done, these Hon. Members will be privy to what they promised will be delivered and has been delivered. Otherwise going forward, I want to appreciate the Members and committee for the work they did. Thank you, I am contented.

Hon. Speaker: Thank you very much Hon. Member, let us proceed, Mr. Clerk. May I at this point invite Hon. Paul Wambua to come forward and make a statement.

STATEMENT SOUGHT **RECRUITMENT OF ECDE TEACHERS IN THE COUNTY**

Hon. Paul Wambua (Kibauni, PTP): Thank you, Hon. Speaker. Unlike Mheshimiwa Mwonga, I think my eye sight is still very okay and thank you for confirming that going forward, statements will be taken seriously. I am on record in this House having sought a statement on the task forces that had been formed by the County Government and I have never received feedback on the same.

Madam Speaker, let me get to my statement and it is a statement on the recruitment of ECDE teachers in Kibauni ward and the county generally.

Hon. Speaker, that aware THAT Article 43(1) (f) the Constitution of Kenya 2010, provides that every person has the right to education; aware THAT, Article 53 of the same Constitution provides that every child has the right to free and compulsory basic education; basic nutrition, shelter and health care; protection from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labor; parental care and protection;

Further aware THAT, the fourth schedule of the same Constitution distributes functions between the National Government and County Governments;

Acknowledging THAT the National Government is mandated to develop educational policies, curriculum, maintain standards and examinations as well as training and capacity building of personnel's, while the County Government is mandated to oversee Pre-primary Education (PPE) and Child Care Facilities (CCF) including the hiring of the Pre-primary education teachers and assistants;

Noting THAT Article 189(2) of the Constitution provides for cooperation between the National Governments and County Government in performing the functions and exercising powers in the provision of proximate and easily accessible services;

Further aware THAT Section 3(3) of the National pre-primary policy guidelines states that the teacher-child ratio in a regular pre-primary class shall be (a)1:25 (b) an assistant teacher shall be required for each pre-primary class (c) Teacher-child ratio for pre-primary education special needs children shall be as follows: Category of Special Need Standard Ratio Deaf Blind 1:1 Cerebral Palsy 1:1 Severe/Multiple impairment 1:1 Autism 1:5 Mild mentally Impaired 1:10 Gifted and Talented 1:10 Hearing Impaired 1:12 Visually Impaired 1:15 and Physically Impaired 1:15

Further aware THAT, in the current FY 2023/24, there is a budget allocation amounting to Ksh. 4,000,000.00 (4M) for recruitment of ECDE & VTC staff and Ksh. 15,000,000.00 (15M) for purchase of educational aids and related equipment for ECDE and noting that we are in the third quarter of the Financial Year.

Further, aware THAT the County Assembly of Machakos passed the Machakos County ECDE policy that outlines the teacher- learner ratio;

Hon. Speaker, I wish to seek the following statement:

1. How many ECDE Centers are there within the County managed by the Department and what is the current status of teacher- learner ratio within those ECDE centers?
2. Does the department have a scheme of service in place for recruitment/ employment of ECDE teachers?
 - a. If yes, what are the terms of service of the current ECDE teachers?
 - b. If no, how does the Department manage the recruitment and remuneration of the current ECDE teachers?
3. Has the department recruited any ECDE teachers in the current Financial Year?
4. Whether the department has purchased and distributed learning materials to all ECDE centers within the county, if yes how has the department been distributing the same to ensure that all ECDE centers benefit?

Madam Speaker, before I sit down, and Hon. Mary has taken my phone where I had drafted my notes but it is me who drafted so I can remember a few, just to add some salt to this story, my seeking this statements emanates from my discussion with the EDCE teachers within Kibauni ward and Madam Speaker, from what I get from them is that since 2013, the county has not employed ECDE teachers.

Madam Speaker, every year we have been employing doctors which is another basic need for our people. We have been employing other staff that may not be working in areas that may be termed as basic need areas. However, we have not employed our teachers. The only teachers that have been employed, the employment that was done for ECDE teachers was done in 2013 and they are on contract basis. Madam Speaker you can imagine someone employed in 2013 and up to date, Madam Speaker, I do not want any information---

Hon. Dominic Maitha (Muthwani, WDM-K): Point of order.

Hon. Speaker: Okay, point of order taken.

Hon. Dominic Maitha (Muthwani, WDM-K): Madam Speaker, is it in order for the Hon. Member, he has already sought a statement, he is already explaining the statement, so what was the purpose of seeking the statement? He is out of order.

Hon. Speaker: I tend to disagree; the Hon. Member is trying to explain further how he arrived at this Statement so that---

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

Hon. Speaker: Okay proceed.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you Hon. Speaker. It is a normal practice, once a Hon. Member seeks a statement, he stops there unless he requests for leave from the chair or from the Speaker. He has not requested you to allow him; he just reported that the phone has been taken away but he never requested for permission. I was here.

Hon. Speaker: Well guided. Hon. Wambua, I will allow you to ventilate a bit on the statement even though you have not requested for leave as guided but do not take a lot of time.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Point of information.

Hon. Speaker: Yes, Hon. Deputy Speaker.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you Madam Speaker, I think the Member has just sought a statement and needs to get some information and already the information that he is trying to pass to the House is already wrong because in the year 2020, I moved a motion in this House over the same and I am aware that some ECDE teachers were recruited in the year 2021.

I believe it would be prudent for him to wait for the responses because some of the issues he is raising were already executed before. It is good for the Member just to wait because sometimes we also need to be honest with ourselves. Statements is requesting for information that you do not know, so if you do not know that information, it is good you just wait for responses then we debate from that point. Thank you Madam Speaker.

Hon. Speaker: Thank you, well guided. Hon. Paul, though I had given you an opportunity to explain, by the very nature of a statement, from what the Hon. Members have contribute, is that when you are seeking a statement, you are seeking for information, so if you now start explaining, it dilutes the whole thing. So, I will just ask you to stop at that and then I allow Members to...I do not even think, is it necessary for Members to comment? We wait for the committee to come bring the report then we can ventilate on it at that time.

Hon. Paul Wambua (Kibauni, PTP): Thank you, Madam Speaker. I was just trying to explain the importance of ECDE Education and that is the foundation of education and if we do not take care of our children at that point, then we will get what someone called GIGO, garbage in, garbage out, because at the end of the day if we do not have good material from the basic education then---

Hon. Speaker: Allow the committee to do their work.

Hon. Paul Wambua (Kibauni, PTP): Yes, and Madam Speaker, we will get what one of constituents called *ndia ndwau*. People who are not taken care of in terms of health and people who are not taken care of in terms of education. We will get people who we will call *ndia ndwau*. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much Hon. Member. Thank you, Hon. Paul for that statement. I wish to commit the statement to the Education and Social Services committee and the same to be responded to on or before 7th May, 2024. The Education committee you have only a few days to bring that report back to us. Thank you, Hon. Members.

MOTION

REPORT ON ASSUMPTION OF OFFICE OF THE SECOND GOVERNOR OF MACHAKOS COUNTY

Hon. Speaker: At this point may I invite Hon. Phoebe Koki, Chairperson, Devolution and Intergovernmental Relations committee to come forward and present that motion to us.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker and I am rising on Standing Order 27. Madam Speaker, looking at my watch, it is already about 10 minutes past noon and the Standing Order is very precise. Nobody rose to seek extension of time for the morning sitting and the report which is about to be tabled, Madam Speaker, I think it will take more time. It cannot be deliberated or discussed within the remaining hours to the expiry of the morning sitting. I think we need your guidance on that Madam Speaker.

Hon. Speaker: I suggest that we proceed without extending the time then we will get an opportunity to give more directions.

Hon. Phoebe Koki (Nominated, MCCC): Thank you, Madam Speaker.

Hon. Speaker, pursuant to Standing Order 189, I wish to move the motion THAT this Honorable House adopts the Report of the Devolution and Intergovernmental Relations Committee on the Assumption of Office of the Second Governor of Machakos County as laid on the Table of the House on Tuesday, 9th April, 2024. Thank you, Madam Speaker.

I call Hon. Catherine Muia to second the motion.

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

Hon. Catherine Muia (Nominated, WDM-K): Thank you, Madam Speaker. I do second.

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

Hon. Speaker: Thank you very much. Allow me to propose the question then I give you an opportunity.

(Question proposed)

Now I invite Hon. Ndawa to proceed with the Point of Order.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker it is not a point of order but a point of information. Hon. Speaker, the report which is about to be read by our most able Chair and our new elected Chair for Devolution Hon. Caro, is a very important document and I strongly believe there are issues of figures and as you are aware Hon. Speaker, if we start debating that report, it may take time from the afternoon session and we have another important business which is coming in the afternoon.

I am requesting that since this is a very important document which has figures, that we be given time since it has been shared in our website, we be allowed time to go through the report then the same to be allocated another time. I am requesting we be allowed to go through the report. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Ndawa. I have also looked at the report and I find it has a lot of figures involved and therefore I am going to allow the same to be deferred to have adequate time to look at it so that we can debate it adequately the next time. For now the motion is deferred to another time. Thank you, Hon. Caro for that.

ADJOURNMENT

Hon. Speaker: At this point the House has to adjourn and the House adjourns to Tuesday, 16th April 2024 at 2.30 pm. See you then Members.

The House rose at 12.10 p.m.