



REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
1ST ASSEMBLY-4th SESSION
OFFICIAL REPORT



(The Hansard)

Wednesday 30th March, 2016

The Assembly met at the Assembly Chambers at 2:30 P.M

The Speaker, Hon. Ndegwa Wahome, in the Chair

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

The clerk-at-the-table confirms that there is no quorum

Speaker: There being quorum, we can proceed with the businesses of the day. First order.

PAPERS

REPORT BY THE COMMITTEE ON HEALTH SERVICES ON THE STATUS OF
RWANYAMBO DISPENSARY IN REGARD TO EQUIPMENT. I TABLE

Speaker: Yes, member for Githabai and the chairperson committee on health services, hon. Peter Kairu.

Hon. Peter Kairu: Thank you Mr Speaker, I rise to table a report by the committee on health services on ‘The Status of Rwanyambo Dispensary in regard to Equipment’. I table.

MOTION

REPORT ON THE MIDLANDS LIMITED PETITION BY THE JOINT COMMITTEE
(AGRICULTURE, FISHERIES & LIVESTOCK DEVELOPMENT AND INDUSTRIALIZATION,
TRADE, CO-OPERATIVES, TOURISM & WILDLIFE COMMITTEES)

Speaker: Yes, chairperson The Joint Committee (Agriculture, Fisheries & Livestock Development and Industrialization, Trade, Co-Operatives, Tourism & Wildlife Committees) hon. Samuel Kimani Njiraini.

Hon. Kimani Njiraini: Thank you Mr Speaker, I beg to move the following motion:

That this House does adopt the report by the Joint Committee (Committee on
Agriculture, Livestock & Fisheries Development and the Committee on

Industrialization, Trade, Co-operatives, Tourism and Wildlife) on the Report On The

Midlands Limited Petition as a report of this house and the recommendations there in as resolutions of this House.

Every member for this house has the report in his or her file and I will start with the preface.

Mr Speaker Sir, On 30th September, 2015, Hon. James Gachomba tabled a petition by Midland Limited in this House on the importance of the company to the County, seeking the following:

- a) That the Assembly does investigate the matter, including making a visit to the Midland Limited Plant at Njabini for a first- hand experience and assessment of the potential and importance of the facility to the people of Nyandarua.
- b) That the Nyandarua County Government does consider asking the Ministry of Agriculture, Livestock & Fisheries Development, the complainant in this matter, or any other relevant government organ to withdraw the plaint to allow the County to pursue its development agenda.
- c) That Nyandarua County Government does consider enjoining itself as an interested party, in the interest of the public within Nyandarua County, in the civil suit pending before the Nakuru High Court so as to articulate the position of the people of Nyandarua.
- d) That the County Assembly does make such other resolution that it deems appropriate for the best interest of the people of Nyandarua and for the purpose of boosting and enhancing the development of agriculture in the County.

Following the presentation of the petition, the Hon. Speaker directed that the Assembly, in its entirety makes a visit to the company to gather all the relevant information on the operations of the company to date and assess the importance of the company to the people of Nyandarua.

Mr Speaker, you further directed that the matter be handled jointly by the Committee on Agriculture, Livestock & Fisheries Development and the Committee on Industrialization, Trade, Co-operatives, Tourism and Wildlife as it touches on both agriculture and industrialization.

The petition, as presented, was amended to meet the requirements of Nyandarua County Standing Orders No. 193 and 196. More so, some issues raised were pending for determination and court thus *sub judice*.

Hon. Kimani Njiraini chaired while Hon. Kibebo was the vice chair to that committee.

The following key issues were identified:

- A. The Directorship of the company
- B. List of shareholders and their respective shareholding in the company
- C. Land ownership details and the process of acquisition of the said parcel of land
- D. Pending court cases
- E. The net worth of the investment made on the land
- F. The plant's current processing capacity and its optimum processing capacity
- G. Challenges faced by the company

Mr Speaker, the House visited that place and later the Committee guided by Article 195 of the Constitution of Kenya, 2010 that gives power to summon any person to appear before it for the purpose of giving evidence or providing information. You can see the schedule that guided the committee to invite people to come and give more information to the committee. We invited several people including Mr. Nathaniel Gathaiya Lands Registrar, Nyahururu.

Speaker: Chairperson, bearing in mind that you are dealing with land issue in Nyandarua and you have indicated that the land registrar at Nyahururu cannot be able to give information about land in Nyandarua, it is supposed to be land registrar Nyandarua with offices being Nyahururu.

Hon. Kimani Njiraini: Thank you Mr Speaker, I beg to amend that and insert the words Nyandarua (offices located at Nyahururu) and I call upon Hon. Michael Kirumba to second the amendment.

Speaker: Yes member for Kipipiri and the Deputy Leader of Majority Hon. Michael Njoroge Kirumba.

Hon. Michael Kirumba: Thank you Mr Speaker I second the amendment to make the report clear on who we summoned.

Question proposed

Question put and agreed to

Hon. Kimani Njiraini: The schedule shows how we invited them but not all of them appeared. However, Hon. Amos Kimunya, a former minister of Lands and Hon. Kipruto Arap Kirwa, the former minister for of Agriculture came.

Mr Speaker, Midlands Limited was launched on 30th April 2004 in an event witnessed by County MPs, Provincial Administration and the Local Authority fraternity. As a public company, it envisaged to accommodate the entire population of Nyandarua and beyond. The

promoters of the company envisioned to address the issues of storage for perishable produce i.e. potatoes, carrots, cabbage, kale, turnips, beetroots etc, as well as value addition and marketing of these agricultural products.

Mr Speaker, the promoters approached SFT through the Ministry of Lands requesting for allocation of land. There followed an evaluation of how the Farmers Training Centre under the Ministry of Agriculture and value addition could co-exist. This included ground reports and space requirements for each of the functions where value addition was allocated 25 acres and the training centre 50 acres.

Mr Speaker Midlands Limited Company is located in Njabini, South Kinangop, Nyandarua County, on a 25 acre plot of Land LR Nyandarua/ Njabini/5852 that was curved out of LR Nyandarua/Njabini/530. Originally, 75 acres under LR Nyandarua/ Njabini/530 belonged to the Settlement Fund Trustees. At the time, it was subdivided into 5851(50.4 acres) allotted to the Ministry of Agriculture and 5852 (25 acres) allotted to Midlands Limited.

Mr Speaker LR Nyandarua/Njabini/5852; belonging to Midlands was further subdivided into 6 units, each approximately 4.2 acres all belonging to Midlands Limited. These are; Nyandarua/Njabini 6087, 6088, 6089, 6090, 6091 and 6091.

The subdivision was informed by the need to create five distinct processing facilities and a Head Office unit, each on its own plot. In addition, it was more flexible and advisable to be in a position to charge some of the plots strictly on need basis as opposed to charging the entire parcel of land...

Speaker: Chairman, there also appears a parcel number 6092 and I do not know what you are going to do about it!

Hon. Kimani Njiraini: Mr Speaker, allow me to amend the second paragraph on page 2 to delete 6091 and replace it with 6092. I call upon Hon. Tiziana to second.

Speaker: Yes county member from Engineer hon. Tiziana Mwangi.

Hon. Tiziana Mwangi: Thank you Mr Speaker I second.

Question proposed.

Question put and agreed to.

Speaker: Hon. Njiraini proceed.

Hon. Kimani Njiraini: Currently, the six plots are charged to Equity Bank with an original loan of Ksh. 172 Million now standing at around Ksh. 50 Million.

Njabini was identified as the best location for a cold storage and processing facility because of its temperature profile and proximity to the main markets. The chronology of allocation of LR Nyandarua/Njabini/5852 by SFT is as attached.

Shareholding Policy

The maximum shareholding was initially affirmed by the Board at 1,500,000 shares. Following the poor uptake of shares which was threatening to stall the project because of the resultant poor funding, the Board lifted the limit where current and potential shareholders could purchase as many shares as they wish subject to their availability.

Authorized Capital

Midlands Limited has an authorized capital of Ksh. 297,619,045 divided into 59,523,809 shares of Ksh. 5 each.

Allotment

Kshs. 55,595,238 shares were sold over time for prices ranging from Ksh. 5 to Ksh. 25 per share (These shares are held by 2760 shareholders. 3, 928, 571 shares fully paid up and belonging to the Company intended to be used for accommodation, facilitation or for value as the company, through the Board may deem necessary)

Status of the Board

The Board's membership has reduced over the years from the inaugural board of thirteen (13) members to a current bare minimum of four (4) who act as a maintenance board. As at 31st December, 2012, the Board of Directors consisted of the following;

- 1) Mr. Mburu Njoroge
- 2) Mr. Junghae Wainaina
- 3) Mr. Patrick Wainaina Mungai
- 4) Eng. Samuel Mwaura Mungai
- 5) Mjr. (Rtd) Murage Mwangi
- 6) Mr. Mutitu Mwangi
- 7) Prof. Antony Gachanja
- 8) Ms. Jane Michuki

Some members, who were AACF representatives, resigned out of fear of besmirching while the elected Chairman also moved out to concentrate on the court cases and allied matters. The maintenance board comprises of the following;

Name	No of Shares
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1) Mary Wangui Kiarie	Nil
2) Prof. Antony Gachanja	384, 855
3) Eng. Samuel Mwaura	50,000
4) Mr. David Gacheru	600

Annual General Meetings

The company is 3 AGMs in arrears although an AGM is scheduled to take place after the completion of the ongoing audit for the last three years; 2013, 2014 and 2015. During that AGM, a new Board will be elected.

Venture Capitalists

The only venture capitalist interested in Midlands was African Agriculture Capital Fund (AACF) whose representative is Pearl Capital Partners. Its investment is as follows:

- a) 9,523,809 ordinary shares
- b) Ksh. 100 M 7 year term loan at an interest rate of 18% pa servicing of this loan was due from April 2014.

Liabilities

As per the audited accounts for the Year Ended 31st December, 2012 for Midlands Limited, the company had long term outstanding loans amounting to Ksh. 193, 284, 147 at the year end. The loans were owed to the following;

- a) Equity Bank assets loan of Ksh. 93, 284, 147 at 13% pa payable within 84 months and secured against
 - land parcels Title No 6087, 6089, 6090, 6091, 6092;
 - Directors personal guarantees of Ksh. 127, 771, 400;
 - Existing hire purchase agreement over part of French fries processing line; and

Speaker: Chairman is it supposed to be French fries?

Hon. Kimani Njiraini: Yes Mr Speaker

Speaker: It is supposed to be French fries.

Hon. Kimani Njiraini: I think the computer cannot write that one...

Speaker: No the clerks are supposed to ensure that it is correct and it is not an issue with the computers.

Hon. Kimani Njiraini: Mr Speaker I wish to amend by deleting the word 'fries' after French and replace it with 'fries' and I call upon Hon. Kieru to second.

Speaker: Yes member for Gatimu.

Hon. Kieru Wambui: Thank you Mr Speaker I second the amendment so that the words French fires read French-fries which is commonly known as chips in Kenya.

Question proposed

Question put and agreed to

- Motor vehicle Reg. No KBN 154
- b) AACF 6 year term loan of Kshs 100M at 18% pa repayable in 6years with effect from January 2013 secured under the Company's assets and the promoters shares.

Current Liabilities

- c) Equity bank assets loan which stands at Kshs 50 M
- d) AACF at Kshs 136 M plus penalties
- e) Several directors/shareholders have advanced some funds occasionally to boost cash flow (e.g. legal fees for court cases)
- f) **Audited Accounts**

The last audited accounts of the company are at 31st December, 2012.

Operations of the Company

S/NO	ACTIVITY	STATUS
1.	Buying, grading and sorting of potatoes at peak harvest to release during shortages	Suspended due to lack of funds made worse by the court cases
2.	Selling of ware potatoes	Ongoing at less than 10% capacity
3.	Processing and sale of ready to cook vacuum packed potato products	Ongoing at around 10% installed capacity
4.	Dehydration of assorted vegetables including potatoes	Suspended
5.	Milling of selected high value products as additives for food fortification	In abeyance
6.	Conversion of agro-waste to livestock feed	Suspended
7.	Extraction of pyrethrins	Abandoned

Pending court cases

The EACC wrote to Midlands demanding surrender of the land which the commission claimed was acquired fraudulently. EACC threatened to recover the land through court action should Midland fail to surrender it as demanded.

Midlands Limited denied the claim of fraudulent acquisition and the EACC filed a recovery suit at the Nakuru High Court (No. 195 of 2013). Before the civil case was heard, the EACC, through the DPP filed a criminal case against the company and the chairman (among others) alleging fraudulent acquisition of Government land.

The net worth of the investment made on the land

Estimated total value, including physical and intrinsic assets, is Ksh. 1.2B.

The plant's current processing capacity and its optimum processing capacity

The facility can now;

- Store 6,000 tons (about 60,000 bags) of potatoes for over 8 months
- Process 40 tons of potatoes per day into ready-to-cook products
- Dehydrate (dry) over 30,000 tons of assorted vegetables for extended shelf life per year
- Convert all vegetable waste and peel into blended high quality livestock feed

Currently all activities including employment opportunities have reduced by half.

The facility has unused factory floor which when equipped shall;

- More than double the above mentioned capacity
- Allow for further processing of dehydrated vegetables into food fortification additives and soups
- Allow for the processing of long life frozen potato products suitable for export market

Challenges faced by the company

- Court cases

There is both a civil and criminal case against the company both related to the land

- Participation by Government

The County Government has been slow in taking an active role in the company

- Funding

Additional funding is required to give finishing touches to the first phase in order to launch the company into export market *inter alia*. Following the challenges the company currently faces, the Chairman, Midlands Limited, Mr. Jung'ae Wainaina petitioned the Assembly seeking; among others, that the County Assembly does make such other resolution

that it deems appropriate for the best interest of the people of Nyandarua and for the purpose of boosting and enhancing the development of agriculture in the County .

The Joint Committee, having been tasked to launch an enquiry into the petition, set out to make inquiries from key persons who the committee invited to shed light on the issues surrounding the petition. Those who appeared before the committee are as listed.

We visited the company and were shown all places.

In line with this, the committee deduced the following;

- That the Midlands facility is a very important asset for the county
- It has the capacity to generate wealth through;
 - a) Improvement of price levels

The entry of Midlands as a substantive buyer at improved prices will inevitably force the broker to match the prices being offered by Midlands. The issue of extended bags could easily be irrelevant and become history.

- b) Stabilize prices of Key County Agricultural produce

Lack of appropriate storage in which fresh, perishable produce can be held during surpluses to be released during shortage periods is the root cause of cycle prices of agri-produce in Nyandarua. Midlands can hold about 6,000mt at peak supply (low supply season) and release the stocks when prices improve (when supplies are low). The effect of this shall be to stabilize prices at an improved level.

- c) Provide stable and viable investment opportunity for youth and women groups

There is a substantial population of youth and women engaged in crop production who can be organized into formally registered practical groups to grow designated crops for Midlands at pre-agreed prices for the betterment of their welfare and that of Nyandarua people in general.

- d) Secure substantially more of the market-value of produce for the County

Midlands is capable of adding value to substantial quantities of the County's key agri-produce including potatoes, carrots, leafy vegetables and others.

- e) Engage in pyrethrum processing and enter the international pyrethrums market

It has become technically impossible for Midlands to meet all the prerequisites for one to be licensed hence they have not been able to secure a share of the market. The benefits of such a

licence would enable Midlands not only to process but also to enter the international market. This is however a viable venture that Nyandarua should pursue via Midlands.

f) Training of Youth and imparting technical expertise.

Midlands is a modern facility with many and varied technical aspects. Different plant operators are required for the following;

- To operate and maintain
 - ✓ cooling and freezing facilities
 - ✓ potatoes processing machinery
 - ✓ dehydration lines and machinery
 - ✓ livestock feed and machinery
 - ✓ starch recovery machinery
 - ✓ used water recycling system
 - ✓ laboratory equipment
- Electricians
- Plumbers
- Nutritionists etc.

The company has already trained 7 local youths on potato handling in Europe.

g) direct and indirect employment

When fully equipped, Midlands Limited can employ 1200 people directly and over 50,000 indirectly

Prayer 2

That the Nyandarua County Government does consider asking the ministry of Agriculture, Fisheries and livestock who is apparently the complainant in the matter or any other relevant government organ to withdraw the plaint and thus allow the county to pursue its development agenda.

Prayer 3

That the Nyandarua County Government do consider enjoining itself as an interested party, in the interest of the public within Nyandarua County , in the civil suit pending before the High Court in Nakuru so as to articulate the position of the people of Nyandarua.

In determining the matters for consideration in the petitioner's prayers number 2 and prayer number 3, the committee set out to understand what the procedure of allocation of Government land under the Settlement Fund Trustees and observed as follows:

1. The first step is identification of the land to be acquired
2. A ground status survey report would be prepared by the District Land Adjudication and Settlement officer and sent to the Director of Land Adjudication and Settlement
3. Thereafter, the identified parcel of land would then be planned, surveyed and the resultant survey plans would be used to guide allocation to the identified beneficiaries.
4. The identification of the beneficiaries was carried out by the District Plot Selection Committee comprising of the local leaders and Provincial Administration. The list of beneficiaries would then be forwarded to the Minister for Lands and Settlement for approval through the office of the Director of Adjudication and Settlement. After the said approval, the Director would then issue letters of offer.
5. The letters of offer would prescribe the amount to be paid and the period within which the cited amount should be paid but could not transfer title. Ten per cent of the amount ought to be paid within three (3) months and the balance thereof ought to be paid as a loan for a period of Thirty (30) of years. A beneficiary has the option of choosing to pay the whole amount set out in the letter of offer in what is known as outright purchase. Further, until payment and transfer of the title the land remains the property of the Settlement Fund Trustee.
6. Once a beneficiary has cleared payments, the necessary clearance, discharge of charge and transfer documents are prepared. The Transfer documents were prepared by the legal section of the Department of Land Adjudication and Settlement within the Ministry and forwarded to the Officer Administering the Settlement Fund ("OASF") for execution and sealing.
7. The OASF is also the Permanent Secretary in the Ministry of Lands, and once the instruments of transfer are signed they are received by Legal Office and forwarded to the District Land Adjudication and Settlement Officer ("DLASO") in the respective area where the beneficiaries collect them for registration and issuance of Title Deed at the respective District Land Registry.

From the Committee enquiries and documents submitted (*annexed*), as regards the Njabini settlement scheme, the scheme was initiated in the 1960's after independence. The scheme was aimed at reducing population pressure in the former Native reserves and squatters in the former White Highlands. These farms were developed and had improvements which included residences. During planning of the scheme, part of the land was identified for public utilities ("PU") which included schools, health centres, farmers training centre and any necessary social amenities.

The parcel of land known as Nyandarua/Njabini/530 was identified for Njabini Farmers Training Centre. The parcel was registered under Settlement Fund Trustee (SFT) as the owner of the parcel of land. Midlands Company made an application to be allotted land for agro-processing through a letter to the then Minister for Lands and Settlement Hon. Amos Kimunya dated 15th August 2003. The company requested for the Allocation of SFT land in Njabini Township LR Nyandarua/Njabini/530 for the development of an Agricultural Fresh – Produce Processing and Packaging Plant.

A ground status report on plot number 530 - Njabini Settlement Scheme was prepared by the DLASO through a letter dated 7th June 2005 to the Director of Land Adjudication Settlement. A directive by the Director of Land Adjudication and Settlement to the DLASO to subdivide LR No. Nyandarua/Njabini/530 into two parties of 25 acres and 50.4 acres was issued on 9th June 2005. The District surveyor advised on the completion of the sub-division by a letter dated 21/06/2005.

Mutation forms were then prepared and the executed mutation forms serial Number 1161184 indicating sub-division of LR No. Nyandarua/Njabini/530 into 5851 and 5852 accompanied with a sketch showing the subdivision. The mutation was registered on 12/08/2005. In addition the DLASO wrote to the director of Land Adjudication and Settlement confirming the LR numbers of the new plots.

The Director of land Adjudication and Settlement thereby issued a letter of offer to Midlands Company and to the Ministry of Agriculture on 30th June 2005. The DLASO confirmed showing Midlands their plot and boundaries through a report to the Director of Land Adjudication and Settlement dated 4th July 2005. An invoice for purchase of the plot was presented to Midlands and receipts for the payment made to the Settlement Fund Trustees were presented to the Committee. The discharge and transfer documents of the land were issued to midlands through the DLASO.

A clearance form signed by the director, Estate Manager and Chief Accountant of the Settlement Fund Trustee was issued and further a discharge and transfer was issued on

31/01/2006 and 06/02/2006. The Company was finally issued with a Title deed to the land on 6/02/2006. It was observed that the Ministry of Agriculture was also issued with a letter of offer for Land parcel number Nyandarua/Njabini/5851 measuring 50. Acres and the committee was not able to ascertain if any objection was raised.

The acquisition of the land has been subject to a legal dispute culminating to a civil suit in the Environment and Land Court in Nakuru, Civil case No. 195 of 2013, EACC Midlands Limited and Lilian Wangiri Njenga. The said suit is for recovery of the land on the claim that it was irregularly acquired. The committee deliberated at length on the same and from the scrutiny of the availed documents, the committee observed as follows:

1. That the statutory process for allocation of the SFT land was complied with in allocating the land to Midlands and the acquisition of the land did not flout any procedure as prescribed.
2. That the Ministry of Agriculture had not possessed title to Plot No. 530 - Njabini settlement scheme by the time of the request for allocation of the land to Midlands
3. That the Ministry of agriculture did not raise an objection to the initial request for allocation of the land to Midlands Company
4. That the Ministry of Agriculture raised a complaint to the KACC in the year 2008 two years after the Company had been issued with a title deed to the land and undertaken massive investment on the said land.

In an attempt to resolve the impasse created by the existing court case which has hindered the operations of Midlands limited, the Committee thereby addressed itself to the petitioner's prayers as follows: That prior to the sub-division of Nyandarua/Njabini/530 the land had been set aside for a public purpose as a Farmers Training Centre and reserved for use by the Ministry of Agriculture. The Ministry of Agriculture had several functions pertaining to diverse agricultural matters as existed then. Upon the promulgation of the Kenya Constitution 2010, Agriculture was devolved as a county government function under the Fourth schedule. The activities devolved include crop and animal husbandry, livestock sale yards county abattoirs, plant and animal disease control and fisheries.

On 17th March, 2014, acting pursuant to section 15 of the Sixth Schedule of the Constitution as read with sections 23 and 24 of the Transition to Devolved Governments Act, 2012 and further to the Kenya Gazette Supplement No. 116 of 2013, through Legal Notice No. 33 published in the Kenya Gazette (annexed), the Transition Authority approved the transfer of the Njabini Agricultural Centre vesting the ownership and management of the centre to Nyandarua County Government.

Speaker: Chairman, did not the transitional authority mention that?- because if they never mentioned it, the title they were referring to then the title number they transferred is number 5851 and not 5852. The transitional authority merely transferred the Njabini Agricultural Centre, they never mentioned the title number.

Hon. Kimani Njiraini: In light of the above information, the Committee made the following findings:

1. That the land in dispute is under the current constitutional and legal dispensation vested upon the Nyandarua County Government;
2. That the Ministry of Agriculture being the complainant in the Civil case No. 195 of 2013 should thereby seek the opinion, position and concurrence of the Nyandarua County Government with regard to the issue of ownership of the land in dispute;
3. That Agriculture is a devolved function of the county and the county government has the constitutional and statutory mandate to ensure the development and sustainability of agriculture towards achievement of vision 2030 economic blueprint.
4. That the County Government should take a further and more elaborate role in achieving a viable resolution in the dispute on the land to ensure that the broader economic and social development interest of the people of Nyandarua County is achieved.

Prayer 4

That the county assembly does make such other resolution that it deems appropriate for the best interest of the people of Nyandarua and for the purpose of boosting and enhancing the development of agriculture in the county.

Midlands Limited Company in its fourth prayer requested the county assembly to make a resolution for purposes of boosting the company and enhancing development of agriculture in the county. Two issues were considered when addressing this prayer. These were:

1. Modalities of providing support to Midlands Limited to achieve its full potential as a major investor in the agriculture sector in the County.
2. Development of a sound investment policy and framework to guide the county government in exploring the investment opportunities in the agriculture and other sectors at large.

Mr Speaker if we have the best policies we might be able to allocate funds for that company and start other agricultural industries. We were Able to do the roads without following the legal process and we are being followed for doing that. There is need for one so that the investors that come to Nyandarua feel protected. After intensive deliberations and lengthy consultations the committee noted the following;

1. That Nyandarua County Government lacks an investment policy to guide in matters of investment in the county.
2. That the company did not have updated audited accounts as the last audited accounts were for financial year 2012. The information provided was not up to date.

Mr Speaker the table was supposed to come after bullet 5. The explanation given by the company is that when the company faced legal suits most of its staff left the company including the accountants and as such proper accounting became a challenge.

They do not have enough staff and we are hoping that they will give us the audited report.

3. That the company provided a record of all sales for 5 months (October 2015-February 2016) however, despite requisition of books of accounts or relevant accountable documents such as cashbook or copies of bank statements the committee had not received any such materials from the company.
4. That various directors and private shareholders were noted to have advanced funds to the company which would be convertible to shares at Ksh. 10.50 per share. The committee could however not verify these individual advances as a breakdown of the same was not availed.
5. That a big percentage of the total shareholding in the company is held by few individuals and private companies as shown in the table below. The company however has a big number of shareholders who are residents and farmers in Nyandarua.

The shareholders are as listed. From the above information, out of the total 59,523,809 shares issued and fully paid up, the major shareholders own 49,854,442 shares which is approximately 84 percent of the total shareholding. There would be need for these shareholders to divest their shares to the public of Nyandarua County to ensure more ownership of the project by the larger residents of the county.

6. Most of the operations at the Company have been suspended and those ongoing are operating at less than 10% of their capacity.
7. According to the documents availed to the committee it was observed that the land upon its subdivision had been charged to Equity Bank to secure a Ksh. 93 million loan advanced to the company.
8. The company has the necessary machinery in its premises for agro-processing and value addition
9. That the company is heavily indebted. This combined with the fact that the company has not made any profits from its operations and thus requires restructuring.
10. That the initial vision, goals and objectives of the company would go a long way in improving the lives of Nyandarua residents by providing market for their agricultural produce.
11. That the company needs to put sound strategies in place so as to put the company on the right track again.

The following are recommendations given by the committee. Nyandarua County Government duly recognizes the importance of Midlands limited as an industry with tremendous importance to the county for agricultural development and economic growth to the county. In view of this, the committee unanimously made the following recommendations;

- a) That the Government through the Ministry of Agriculture should withdraw its claim to the parcel of land allocated to Midlands Limited on which the processing factory stands in recognition of the immense value addition that is carried out therein.
- b) That in the event of the Ministry of Agriculture and the EACC failing to withdraw the Complaint in Civil case No. 195 of 2013, the Nyandarua County Government should enjoin itself in the said suit as an interested party to be able to articulate the position of the County Government with regard to the importance of Midlands Company to the economic development of the County.
- c) That the Nyandarua County Government being the owner of the land parcel no Nyandarua/Njabini/5851 that was a resultant of the subdivision of the parcel number LR Nyandarua/Njabini/530 further being the beneficiary of the land parcel no LR Nyandarua/ Njabini/5852 in the event of success of the EACC in the recovery proceedings in Civil case No. 195 of 2013 Should declare and submit it has no objection to the possession of the said land to Midlands Limited.

- d) That in the event any steps were omitted in the allocation of parcel number LR Nyandarua/ Njabini/5852 to midlands limited, the same can be validated through the appropriate mechanisms in law. Any commission or omission of an act that constituted a criminal act under the laws of Kenya in the process of allocation of the land should be pursued in isolation to any further action that would hinder the progress of optimal operation of the company.
- e) That the County Government should constitute a task force to workout modalities in which the County Government and the wider public (in the county) shall participate in the agro processing projects for optimal returns to the county.
- f) The County Government should approach the Central Government for grants and/or soft loans to enable the County venture into crop value chain addition by establishing an industry and seek to partner or merge with other players in the industry including Midlands Company to revive the agriculture sector and push it to achieve its optimal potential.

We have seen the national government supporting the other counties such as Kakamega County with the Mumias Sugar Company, why not support Nyandarua County. This county government alone cannot be able to buy the company because of the allocation it has in the budget.

- g) That the company should ensure strict adherence to the law and rules of corporate governance in its operations. The company's audited accounts and annual returns should be made before any drive on investment in the company is made. Due diligence should be exercised on all aspects of corporate governance and strategies to revive the company as well as the ability of the company to pay its large debts and make profits in future.

The audited report are important documents because they will assist us to know the viability of the company. It is after receiving these reports that the national government and the county government can know whether it will be bought or not. The report will show us the real picture of the company.

- h) That the County should be guided by the legal framework provided under the Public Finance Management Act, 2012, Public Finance Management (County Government) Regulations, Private Public Partnerships Act and Regulations and all

other relevant laws in coming up with an investment policy that will guide any proposal for investment in all sectors of the County economy.

The law needs to be followed so that we shall not be followed to answer questions.

- i) That in implementation of the recommendations herein, the same should be subjected to public participation for their input.

We should consult the public so that they can tell us what they think about midland company. In conclusion, the Committee having considered the petition and all matters arising out of the same thereby seeks to have the House adopt the report of this committee and resolve that the recommendations contained herein be a guiding foundation upon which the county can harness economic growth in the agriculture sector.

The importance of midlands limited to the county cannot be understated nor wished away being the only major investment undertaken by the public in Nyandarua County. Its immense potential to spur growth in the county is a key factor upon which a decision to help the company achieve its potential. This will not only be useful to the shareholders of the company but to the public at large of whom majority are farmers and the government whose key agenda is to achieve growth of the economy through investment in the key sectors of the economy.

The Committee further appreciates the conflict of interest if any that will arise out of the participation in resolution of this matter by the Honourable Members of this House who are shareholders in the said company. This is very true. There were speculations that these Hon. Members wanted to be shareholders in that company. The truth is that the Hon. Members do not want to be shareholders. However it would not be wrong for them to declare interest.

Hon. James Gachomba rises on a point of information

Speaker: What is it member for Njabini/Kiburu, hon. James Kiiru Gachomba?

Hon. James Gachomba: Mr Speaker, I want to give more information on the recommendation.

Speaker: Member for Kaimbaga do you need that information?

Hon. Kimani Njiraini: Yes Mr Speaker.

Hon. James Gachomba: Mr Speaker on recommendation (f) where it reads the county government should approach the Central government, it should be written the national 'Government'.

Speaker: Yes, but in the constitution it is referred to as the national government. We informally refer to it as the central government. Chairman you can move the requisite amendment.

Hon. Kimani Njiraini: Thank you Mr Speaker, on page 22, I beg to move an amendment on recommendation (f), to delete the word ‘Central’ and replace the word with ‘National’ so that it reads ‘National Government’ and not ‘Central Government’ and I call upon Hon. Gachomba to second.

Speaker: Yes member for Njabini/ Kiburu hon. James Kiiru Gachomba.

Hon. James Gachomba: Thank you Mr Speaker, I second the amendment.

Question proposed

Question put and agreed to.

Speaker: The amendment has been effected as moved. Chairman, proceed.

Hon. Kimani Njiraini: We thereby would seek the guidance of the chair on enforcement of Standing Order No. 88 for declaration of interest on this matter and further allow the said members to abstain from taking a vote if any on adoption of this report to inspire confidence that this petition has not been presented, prosecuted, considered and recommendations made for any personal gain to any honourable member of this house. Lastly Mr. Speaker Sir, it is my pleasant duty and honour to move a motion for adoption of this report.

I have gone through the report and I would ask all the members who have personal interests in this company to abstain from voting. We have seen that the company has two lawsuits surrounding one parcel of land and bank loans. It also seems to have many liabilities and it cannot run smoothly. We visited the company and we saw how important it is to the county and I know that you would support it if we took that company as our own. Our goal is to ensure productivity in farming potatoes, pyrethrum and dairy farming. This company can be of help to us.

We compare Nyandarua County with other counties, which have several factories and issue land to investors. The case of land at the centre of which Midlands Limited is should be urgently solved to enable normal running of the company. If the Department of Agriculture, Livestock and Fisheries is the complainant, it should withdraw the case. Further, if the Anti-Corruption and Ethics Commission claimed that the main issue is land then the government should solve the issue. With that Mr Speaker, I call upon hon. Tiziana Wanjiru to second the motion. Thank you.

Speaker: Yes, County member from Engineer, hon. Tiziana Mwangi.

Hon. Tiziana Mwangi: Thank you Mr Speaker. I rise to second the motion on the report of the Joint Committee on Agriculture, Livestock and Fisheries, and Industrialisation, Trade and Cooperatives on Midlands Limited petition. The report is self-explanatory and therefore I will not say much about it. The mover of the motion has clarified every aspect of the report.

We should not neglect Midlands Limited just like what happened with the Wind Park Project. Remember the latter was a development opportunity granted to us by the president; and we may never have another such opportunity. This company can improve many livelihoods in our county. We should revive the company for the benefit of our people who well know the intention of establishing it. With those few remarks, I beg to second. Thank you Mr. Speaker.

Question proposed

Speaker: Yes member for Njabini-Kiburu, Hon. James Gachomba

Hon. James Gachomba: Thank you Mr Speaker. I wish to thank the Joint Committee on Agriculture, Livestock and Fisheries, and Industrialisation, Trade and Cooperatives for coming up with the report, which speaks on itself. The vision to establish Midlands Limited as a value-chain addition processing plant was forged in the Mid-1980s.

We know that the backbone of our county's economy is agriculture. Potatoes, cabbages and milk are our main products. The company was intended to improve the economy of our county. The company would buy raw products from within the county. The company itself was established a public one. Individuals, self-help groups and NGOs bought shares in the company. You remember the inauguration of the company was done in broad daylight in the presence of the then ministers for Land and Housing and Agriculture, Hon. Kimunya and Kilemi Mwiria respectively, the four area MPs, and other stakeholders including the area DCs and Chiefs.

I believe due process of the law in acquiring the land on which the company stands was followed. The land, which is about seventy acres and registered under SFT, would be shared with the ADC. Even initially, the ADC did not own the land. Twenty-five acres of this land was divide into plots, which were charged at the bank. About 172 million shillings is claimed to be the amount of the charge. So the company itself is a legal entity. I do not think a bank could give out loans without having received authentic documents for the same. The documents say that the company has about 55000 shares. The shares would cost between two and five shillings.

I believe the whole process of establishing the company was open. Audited accounts of the company state that the company has liabilities amounting to Kshs.183, 283,047. The problem came in when some people launched some destructive interests in the company. They even wanted the land upon which the company stands to be vacated claiming that it belonged to the ADC. So they went to the High Court. The case is still in court. This was done in a bid to stop the company from growing.

The company is worth about Kshs. 1.2 billion and it has the capacity to preserve about sixty thousand bags of potatoes for about six months. The national government has neglected Nyandarua County for long. Remember that initially our county did not have sectoral infrastructure. A good example is that our county assembly operates from church premises while the offices of the Governor are housed in a rented building. It is high time the national government appreciated that our county is part of this country. The president, who is visiting our county this month should know that our county also needs growth. I said on Inooro TV that Nyandarua County needs to grow.

The president dished out money for Mumias Limited. He also did the same in Mombasa and Murang'a. Why not do the same with Nyandarua? The president should inject money into the Midlands Limited. Remember 99% of Nyandarua electoral population voted for the ruling party. What we are saying as a House is that Midlands Limited should be revived.

I also challenge our county government, which seems to have been in the sleeping mode, to wake up. It should have been in the Governor's agenda to revive and improve the agriculture sector. Why should the CECM for Agriculture, Livestock and Fisheries run to court to file a case pertaining to Midlands Limited? The case should be withdrawn. If not so, the county government should pursue it and bring it to a conclusive end. Finally, I petition the national government to pump money into Midlands Company for it to continue with processing. Thank you Mr Speaker.

Speaker: Yes member for Gathanji and the vice chair of the Committee on Agriculture, Livestock and Fisheries, Hon. Samuel Thuita.

Hon. Samuel Thuita: Thank you Mr Speaker. I rise to support the motion by the Joint Committee on Agriculture, Livestock and Fisheries, and Industrialisation, Trade and Cooperatives. I just wish to make a few comments.

The Joint Committee found out that Midlands Company has 2760 shareholders. Therefore, the perception that the company is owned by a few individuals is wrong. The public should know that the company is not a private one. The Joint Committee also found

out that that the Department of Agriculture, Livestock and Fisheries had not acquired a title deed for the 50.4-acre piece of land for the Njabini ADC. That means that any investor interested in this land for purposes of other investments can be given the land. You wonder why the Department is concerned only in the 25 five acres being mentioned and not also with the acquiring of the said title deed. The public should know that the twenty-five acres were in the same parcel of land as the 50.4 acres.

Why did the Joint Committee recommend on public participation concerning the issue at hand? This is because, to avert the perception that the company is owned by few individuals, the Join Committee felt that the public should be made aware of the status of the company in order to own it so that when it is revived, the public can feel that the company is for the people of Nyandarua.

It is interesting that all the persons that the Joint Committee invited to share information on Midlands Limited observed that the company is relevant to the people of Nyandarua and that apart from value addition to locally produced goods, the company would create employment for the people of Nyandarua. Even CECM for Agriculture, Livestock and Fisheries talked of the importance of reviving the operations of the company. Consequently, her Department should withdraw the case it filed in the court.

Applause

In the meetings, farmers raised their concerns on the need to package potatoes in 50-kg bags. If Midlands Limited is revived, the issue of packaging of potatoes will end. With those comments, I beg to support. Thank you Mr. Speaker.

Speaker: Yes, member for Murungaru and the Leader of Majority, Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr Speaker. I rise to support the motion by the Joint Committee on Agriculture, Livestock and Fisheries, and Industrialisation, Trade and Cooperatives on Midlands Limited petition. I congratulate the Joint Committee for its excellent job. I hope that good returns will be realised with the implementation of the recommendations of this report.

Mr Speaker, we need your guidance on whether this matter is sub judice but it is important for us to discuss this matter; we are not discussing the part of the matter that comprises the case in court. The Joint Committee reported that the company is worth Ksh. 1.2 billion, though in the report there is no evidence to prove that. We would have expected an evaluation report to prove that the actual value of Midlands Limited is Ksh. 1.2 billion. If the

evidence was there the Joint Committee would be talking with authority concerning the company's gross worth.

The Joint Committee has also talked of the investment policy. We have been reading on the print media about the investment conferences. We have never held one in Nyandarua County. I really do not understand why we have never hosted a Nyandarua Investment Conference Mr. Speaker. It is important to host such a conference. Investment opportunities arise when we share our investment vision with investors from other parts of the country, and even beyond. This House should advocate for such for a. They would encourage investors to come to our county and explore the investment opportunities in the various sectors of our county's economy, including tourism. Tourism is one of the sectors that can greatly boost our economy.

I wish to highlight on the importance of this company. This company could benefit our people were it in the hands of the public, were it not being at the centre of a court case and were the county government owning 50% or more of its shares. The company has cold stores that were built through SHOMAP. One of the cold stores is at Murungaru Trading Centre. Were the company fully operational, the cold stores would have been put to their use. The people of Murungaru, for example, could be benefiting from the cold store I have mentioned. In addition, more value addition could be enhanced and ready marked for potatoes could be created. On the same note, the issue of 110-kg potato bags versus 50-kg potato bags could have been solved. When we visited the company, we saw its products including crisps. This company is very important.

Full operationalisation of the company would also create employment, directly or through partners who would invest in the company. We have been talking of unemployment in our county. There are many benefits that can be reaped from full operationalisation of this company. The county government should support this initiative. It should also play a pivotal role in removing the case in court pertaining to the company. If the case is withdrawn right mechanisms should be put into place to revive the company.

With those remarks, I do support the report.

Speaker: Yes, member for Kiriita, hon. Maina Nderitu.

Hon. Maina Nderitu: Thank you Mr Speaker for giving me this chance to support the motion. I thank the chairperson of the Joint Committee and the members of the committee for coming up with this very comprehensive report.

The report is about Midlands Limited, which is our county's 'firstborn' industry. The Joint Committee has recommended the withdrawal of the case in court pertaining the company, which had been filed by the Department of Agriculture, Livestock and Fisheries. Both the Agriculture and Lands sectors were devolved. Remember we have the County Lands Board.

In view of the above Mr. Speaker, I would seek your guidance on what would happen if the members of this House demand that the case be dealt with by the County Lands Board. I have an issue with recommendation no. 1. The CECM for Agriculture, Livestock and Fisheries is the one whose department filed the case in question in court. What would happen if the case is withdrawn bearing in mind she is the implementer?

I also have an issue with recommendation no. 11 which states that the implementation of the report's recommendations be subjected to public participation. Remember how the issue of the Wind Park was politicised. What would happen if the implementation of the recommendations of this report are subjected to public participation? 90% of the people may support the implementation but the remaining 10% who would not support it are the most dangerous because they may incite the others into conflict. In view of this Mr. Speaker, you can advise this House on whether to expunge recommendation no. 9. Lastly Mr. Speaker...

Hon. Kieru Wambui rises on point of order.

Speaker: What is it member for Gatimu, Hon. Kieru Wambui?

Hon. Kieru Wambui: Mr Speaker, the member should clarify which government should be urged to withdraw the case. He insinuates that it is the CECM for Agriculture, Livestock and Fisheries in our county government who should withdraw the case. Is it the county government or the national government that should withdraw the case?

Speaker: Actually, the position is that before the EACC took up this matter, the complaint came from the Ministry of Agriculture, Livestock and Fisheries, which is fully devolved. So, if there is an agreement to withdraw the case, then the County Department of Agriculture, Livestock and Fisheries will play a very critical role. This is because, with the devolvement of the Ministry of Agriculture, Livestock and Fisheries the said complaint was also devolved.

Proceed member for Kiriita.

Hon. Maina Nderitu: Thank you Mr Speaker. Even if you work for the people, they will eventually crucify you. Why am I saying this? The Midlands Limited projects was initiated by the national government led by Hon. Kimunya. Nonetheless, there is a case

pertaining to the company in court. What we would like as a House is the case be withdrawn as quickly as possible. However, my fear is that the resolutions of this report are not implemented. Apparently, we have a major problem of implementation. We've been experiencing this problem and it is important you make the chair of the committee to follow up on the implementation. Thank you.

Speaker: Yes, Majority Whip and member for Shamata, Hon. Kinyanjui Gachari.

Hon. Kinyanjui Gachari: Thank you very much Mr. Speaker. I stand to support the motion on the report. I know the history of Midlands Company since its inception during my tenure as a councillor. The leadership of Nyandarua district, by then, conceptualized the idea of such a company. They came up with a vision of the company and mobilized the residents of this County to own some shares in the company. The leaders moved all over the county, from Kinangop to Ndaragwa, convincing the residents that it was about time they had a company of their own. In fact, the company was founded on the premise that it would address the perennial problem of our farmers especially in regard to lack of proper market for their produce.

The company would therefore save the farmers from the whims of the brokers. I therefore support this report because the committee has been thorough and clear. The company ought to be in the hands of the public. We have no industry in Nyandarua County. We initially had KCC, which turned out to be in Laikipia after devolution. We have no other source of employment for our young people other the County Government because we don't have a factory here and actually, we don't have other serious employers in this County. The Leader of Majority stated that some individuals hijacked this project, which was meant for the public. To the contrary, the Committee has gone into the bottom of the matter and proved beyond doubt that Midlands is still in the hands of the public. I urge the people of Nyandarua to support this company.

Mr Speaker, I remember the people who accompanied the Governor to Germany saw an industry like this one we have in Nyandarua. Instead of going to Germany, I thought it would be excellent if people from East Africa came to Nyandarua to see the industry and learn some things that we are doing right. This is possible if we give this company the support it requires. I urge the County Government to support the company. We have a lot of resources within this county but we really do not derive the full benefits. Most of our farm produce is transported to Nairobi for value addition yet we have a company that can do that within our county and in the end, ensure that the farmers get more money.

Mr Speaker, I am therefore in the forefront of supporting this report since I am a shareholder of this company and I feel the need for this intervention. The Governor promised the residents that there would be a dairy factory in Ol'Kalou, which has not yet started. I am therefore urging the County Government of Nyandarua to start another food-processing industry in Ol'kalou because it is the headquarters. Instead of selling all milk to private companies such as Brookside, we can process our own milk. In fact, the county slogan is 'the land of milk and potatoes' and our efforts should be geared towards that.

Mr Speaker, the time we went to meet President Kenyatta at the State Lodge in Nyeri, leaders from Nyeri, Murang'a and Kiambu were talking about their tea and coffee. For us, we had nothing to say because we have neither coffee nor tea. However, we have milk, peas, potatoes, and other vegetables in our county but we are getting a raw deal in terms of prices because of the lack of factories for value addition.

We need to start a factory and budget for it. We have put all our money on roads but it is illogical to have roads when our people have no money in their pockets. We will not be promoting our county if we do not prioritize. Our farmers should be making much more money if we supported factories and companies within the county.

With those few remarks, I support for the sake of promoting our county.

Speaker: Yes County Member from Githioro, hon. Dorcas Kihara.

Hon. Dorcas Kihara: Thank you Mr Speaker. I would first like to congratulate the committee for coming up with this very comprehensive report. The committee has gone into the details and gotten very valuable information about the company, which they compiled into a report. We can therefore have a glimpse of what Midland really is.

Mr Speaker, the company's visions and objectives were noble since the company wanted to benefit the people of Nyandarua. All the leaders were involved and almost all people in Nyandarua got the relevant information about the factory. As aforementioned, the company aimed at uplifting our people economically and was a way of creating jobs for our young people. The Majority Whip has asserted that Nyandarua is a land of milk and potatoes and if we do not support the revival of the company, we will have ourselves to blame.

Mr Speaker, it is unfortunate that the Ministry of Agriculture then, and now the department of agriculture has over 50 acres of land, which is underutilized. Then you start wondering why they require an extra 25 acres of land. This shows that there are people within this county who are driven by their own self-interests and agendas. One of the complainant in the case, who happens to be the CECM for agriculture, should be held to accountable and yet we are saying that the same department should take over Midland. The same CECM is in the

court complaining that Njabini ADC's land is not enough and giving the rationale that there are many farmers who attend the trainings.

Just the other day, we went with the committee on agriculture and found that the land is underutilized and has not been cultivated. We could be using this land to produce more seedlings for our farmers.

Mr Speaker, when Midland was operational, the land was used to produce and supply high quality potato seedlings to our farmers who had formed groups. They would come later to buy them in kilos. If Midland Company was fully operational, the issue of brokers buying potatoes with substandard bags would be a thing of the past. We would not incur a lot of costs in enacting laws on how our potatoes will be bought because Midland Company already buys potatoes in kilos. In addition, if the company were really operational, Nairobi would no longer be a dumping site. Some of the by-products of the farm produce will be left in Nyandarua implying that not a lot of waste would find its way to Nairobi. Therefore, by supporting Midland, we shall be ensuring that we encourage proper waste management in the country at large and help our farmers get more money from their crops.

Mr Speaker, I would like to mention the issue of audited reports for the three years. We would like the chair to give an indication as to when the reports will be completed. As much as we shall have resolved that the county government needs to take over the investment enjoined to the company, it is important that we have the audited reports for a successful process. It would be work in vain without it. On public participation, Hon. Maina Nderitu raised a very important issue. We are the representatives of the people and according to article 1, sub articles 1 and 2, of the Constitution of Kenya 2010;

- (1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.
- (2) The people may exercise their sovereign power either directly or through their democratically elected representatives,

I believe that a resolution of this House is therefore binding because it always represents the voices of the electorate. I therefore wish that you gave this House a guidance on public participation regarding this move. I also have a feeling that the county government can implement recommendations a, b, c, d, and e without public participation. On recommendation f, g and h, it is important to engage the public because the issue of money comes up. This is my opinion in regard to these recommendations.

Since the ADC has not utilized a whole 50-acre piece of land and the title of the same land remains elusive, it is imperative that they utilize the land. That way, we will understand when they require more land. In fact, the land that surrounds the centre is also useful to our people.

Mr Speaker, during the rainy season, this county produces a lot of vegetables most of which go to waste. The company therefore could help in dehydration of the vegetables and consequent storage so that the farmers can sell their produce at improved prices during drought periods. We can also export the vegetables to such counties as Garissa and Wajir where rainfall is scarce. Instead of the vegetables going to waste and we all know that our people struggle to get these vegetables during dry spells and I believe the drained vegetables, when prepared appear fresh Mr Speaker.

This would solve most of the food insecurity cases in this County and the entire Country as well. I therefore support the report and hope that the recommendations therein will be put in practise as soon as possible in order to protect the title that Nyandarua is a land of potatoes and milk. With those few remarks, I beg to stop. Thank you.

Speaker: Yes member for Githabai, hon. Peter Kairu.

Hon. Peter Kairu: Thank you Mr Speaker. I really support the report, but without going back to what the fellow Members have said, we have talked so much about the issue of Midlands and its significance to our country. I feel that somebody is behind all this issue, he might have wished to be a beneficiary of the company and when things turned out otherwise, he ran to the court and filed a case. So in as much as we keep talking about these matter and whoever is behind it is within us, he may be watching and laughing at us knowing that our talks will sum up to nothing.

I don't understand how this person, who was in the former government as the head of the Agriculture sector in the county level and still with us in the current government, can take this matters to the court and sit back watching us. This is the high time if we want Nyandarua County to progress, to identify the one behind this Midlands case and ask him to withdraw the case, else we shall keep talking to no achievements. If he is not willing to do so then let us apply dialogue on the same. With those few remarks, I fully support the report and I therefore call the mover to respond. Thank you.

Speaker: The mover and chairperson of the Joint Committee and the Member for Kaimbaga Hon. Kimani Njiraini.

Hon. Kimani Njiraini: Thank you, Mr Speaker, I start by thanking the Hon. Members for supporting this report. I also thank your office for facilitating the Joint Committee. My appreciation extends even to the people who have been summoned and have

helped us in the making of this report. Nyandarua County and electorate are ours, and it's is upon us to do all we can to make sure that our electorate earn a living. Nyandarua County being the food basket of the Nation, we need the Midlands Company to process our products so that our large scale farmers benefit from their products. With that, Mr. Speaker, I beg to move. Thank you.

Question put and agreed to.

Speaker: Hon. Members, you realise that I was so patient when this issue of this petition was being addressed because I understand the importance of value addition to the perishable goods which is our forte as a county. I still would want to take the Members through article 196 to 199, for them to understand where we are on the issue of petitions. And they comment:

Comments on petitions

196. The Speaker may allow comments, observations or clarifications in relation to a Petition presented or reported and such total time shall not exceed thirty minutes.

Committal of Petitions

197. (1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Sectoral Committee.

(2) Whenever a Petition is committed to a Sectoral Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes.

Actually, Members I considered that we are in exceptional circumstances in that this is the only known industry in existence within Nyandarua County hence attracting the necessary attention and therefore we had to open the floor for the Members to interrogate this issue fully

(3) The Clerk shall, within fifteen days of the decision of the Assembly, in writing, notify the petitioner of the decision of the Assembly on the petition.

Copies of responses

198. The Clerk shall forward copies of responses received under Standing Order 197 (Committal of Petitions) to the petitioner or petitioners.

Register of Petitions.

199. (1) The Clerk shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the Assembly.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

The reason I have read that is in line with an issue that was raised by the Member for Kiriita and I agree that from our mandate under the standing order, we might not be able to subject these resolutions to public participation because we are required to communicate to the petitioner about what this House has resolved. Actually, we shall also communicate the same to the executive and we expect that if they decide to implement, one of it, is to work towards the removal of both the criminal and civil matters from the court and secondly, is a kind of take-over of the company by the County Government.

That is where the County Government will go to the people because it will be calling for a charge on the public expenditure and thus the people's mandate to extend money on that particular company will need be sought. I have also noted an issue that was raised by the member for Murungaru on valuation. You made a very good recommendation that we approach the National Government on the bail out of the company, but without a valuation report, we may have nothing to put on the tables of the National Government to be able to bail out this company. So I think that this is a matter that the committee should be able to follow up because I know the law has a way of opening up issues. A motion to review can even be brought here to ensure that it incorporates an evaluation report, because it is very critical.

In line with that, because I had noted, although the company is valued at Ksh. 1.2 billion, you will note that they have put a par value of the shares at Ksh. 10 and the shares for the 12 shareholders are 545 million. So, if you put per value of Kshs. 10, it is almost Ksh. 5 billion. So if you put as per the Articles and Memorandum of Association where they are putting the par value as Ksh. 20 then if the government was required to buy the company, it would be required to raise up to Ksh. 10 billion. So those are very critical areas because the county government might get into an issue it might not be able to deal with.

It was also important to note whether any value was attached to the land because it was granted free and from that land, what shares does the contribution of the government hold? Those are also very critical issues that we ought to look at. We have a land that we have been given extending to 25 acres, what is the value of this land and how many shares can be converted from the value of the land? Because all these should go to the county government. I think there are those issues, Mr Chairperson, which ought to be looked at very

closely so that we move on very solid grounds because there is no doubt about it that this is a viable investment and it is the right way to go. These resolutions will be communicated to the executive and we shall be following up to see whether anything materialises out of it. Next order.

MOTION

REPORT OF THE COMMITTEE ON WATER, ENERGY, ENVIRONMENT AND NATURAL RESOURCES IN RESPONSE TO A STATEMENT SOUGHT BY HON. KIERU WAMBUI ON THE OWNERSHIP AND MANAGEMENT OF THE NYAKANJA WATER AND SANITATION COMPANY

The Speaker, Hon. Ndegwa Wahome leaves the speaker's Chair

Temporary speaker, Hon. Dorcas Kihara assumes the speaker's chair.

Speaker: Yes, Member for Charagita and chairperson of the Committee on Water, Energy, Environment and Natural Resources Hon. Kiruka Mburu.

Hon. Kiruka Mburu: Thank you, Mr Speaker. I beg to move the following motion:

That this house does adopt the report of the Committee on Water, Energy, Environment and Natural Resources in response to 'The statement sought by Hon. Kieru Wambui on the Ownership and Management of the Nyakanja Water and Sanitation Company' as a report of this House and the recommendations therein as the resolutions of this House.

I think this is the report that the people of Nyakanja are waiting to see implemented because they need water services in their area. If you go to page four, you will get our mandate as the committee according to the Standing Orders and you also can see the membership of the committee plus the clerk and the Legal Officer attached.

Mr Speaker, you know that after the promulgation of the 2010 Constitution, water sector was devolved and it is the duty of the County Government to provide and supply water to the county residents. On page two there are the ten questions that Hon. Kieru raised. On 15th December, 2015 the committee went on the ground and held a meeting with the residents there. The members were agitated because of lack of water. After we had a meeting with the residents, we summoned the directors of the company, we interrogated them and they tabled the documents that this committee asked them for. We summoned the residents who were complaining and finally the CECM for Water. CECM for Water said that the department recognises only two water companies in this county and which are registered by the Regional Regulator i.e. Rift Valley Water Services Board. These two companies are Ol'kalou water

and Sanitation Company and Nyandarua water and Sanitation Company. The CECM told the committee that...

Kimani Njiraini rises on a point of order.

Speaker: What is it Hon. Kimani Njiraini?

Hon. Kimani Njiraini: Thank you, Madam Speaker, the issue on water is an issue of county importance and should be taken with a lot of seriousness, it is not only for the people of Gatimu Ward but also the County at large. But I note that there is no quorum madam Speaker. Thank you.

QUORUM CALL

Clerk-at-the-table confirms that there is no quorum

Speaker: There being no quorum, I invoke the provisions of standing order no. 35 and direct that the division bell be rung for the initial eight minutes or until such a time that quorum will have been achieved.

The division bell is rung for eight minutes

The clerk-at-the-table confirms that quorum has not been achieved

Speaker: Quorum having not been achieved...

Hon. Kieru Wambui rises

What is it Hon. Kieru?

Hon. Kieru Wambui: Thank you madam Speaker, I wish to request your office that the matter being discussed today, at the point of lack of quorum as per the provisions of Standing Orders be the first one under the order motions and bills in the next sitting day. Thank you madam chair.

Speaker: Very well, Hon. Kieru. I had not finished my communication on that. I was saying, quorum having not been achieved within the 8 minutes, this House will adjourn until tomorrow Thursday, the 31st day of March 2016 at 2:30 P.M and the business, which has been interrupted, will take precedence.

The House rose at 5:34 P.M.