



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



OFFICIAL REPORT

(The Hansard)

Thursday 31st March, 2016

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

The Deputy Speaker, Hon. Wambugu King'ori, 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 no quorum, I direct that the bell be rung for the initial ten minutes or until such a time, within the ten minutes that quorum will have been achieved.

(The bell is rung for 2 minutes)

(Quorum is achieved as confirmed by the clerk-at-the-table)

Speaker: First order.

PAPER LAID

MANAGEMENT OF COUNTY VEHICLES

Speaker: Yes, the chairperson of the Committee on Lands, Housing and Physical Planning, Hon. Kimani Gachuhi.

Hon. Samuel Kimani Gachuhi: Thank you Mr Speaker. I beg to table the Report of the Committee on Lands, Housing and Physical Planning, in response to the Statement Sought by Hon. Dorcas Kihara on 'Management of County Vehicles'. Thank you Mr. Speaker.

Speaker: The paper is duly laid. Time for giving notice of motion on the report will be allocated by the House Business Committee.

Next order.

NOTICE OF MOTION

REPORT OF THE COMMITTEE ON HEALTH SERVICES ON THE STATUS OF RWANYAMBO DISPENSARY WITH REGARD TO THE EQUIPMENT SUPPLIED.

Speaker: Yes the chairperson of the Committee on Health Services, Hon. Peter Kairu.

Hon. Peter Kairu: Thank you Mr Speaker. I beg to give notice of the following motion:

That this House does adopt the Report of the Committee on Health Services on the Status of Rwanyambo Dispensary, with Regard to the Equipment Supplied as a report of this House and the recommendations therein as resolutions of this House.

Thank you Mr. Speaker.

Speaker: The notice of motion is duly given and the House Business Committee will allocate time when the motion will be moved.

Next order.

STATEMENT MADE

STATEMENT OF TOPICAL CONCERN PURSUANT TO STANDING ORDER NUMBER 43(2)
ON THE COUNTY BUDGET IMPLEMENTATION STATUS

Speaker: Yes, Hon. James Gachomba.

Hon. James Gachomba: Thank you Mr Speaker. I rise to make a Statement of topical concern pursuant to standing order number 43(2) on the County Budget Implementation Status:

Mr Speaker sir, aware that through an analysis undertaken by the County Treasury on the County expenditure, the same has indicated a very low absorption rate of 8% of the funds allocated to development expenditure in the county;

Concerned that the said rate of absorption is indicative of the slow pace of implementation of the development projects and programmes;

I thereby wish to register my express apprehension on the above stated issues in that the status as existing risks having huge sums of money standing un-utilized thereby occasioning poor performance of the county government and failure to meet the expectations of the people of Nyandarua.

The Speaker consults with the clerk-at-the-table

Speaker: Hon. Members, pursuant to Standing Order no. 43(2), the raised issue is of topical concern. The same Standing Orders allows for debate of such an issue on the floor of this Hon. House. Any Member who wishes to contribute on the issue has three minutes to do so. The floor is open. Yes Hon. Peter Kairu.

Hon. Peter Kairu: Thank you Mr Speaker. I rise to contribute on the statement that has been made. It seems that things are not taken seriously in this County. I do understand how only 8% of development money can be utilised while almost all money for recurrent expenditure is utilised. This County has a problem which, if not solved, will lead to dire consequences.

Our County returned money to Treasury last financial year. This money was reimbursed through the Supplementary Budget. It is very shameful that much of the money for development expenditure has not been utilised yet we have about two months to the end of the financial year. The people of Nyandarua should know that the Governor we have is not working effectively. If the money for development expenditure is returned back to the Treasury this year, which will interpret to the fact that various proposed projects will not have been implemented, it will prove that we have people who are not working as they should in our County Government.

BQs to the proposed projects have not been drafted. Even some contractors have not started working on assigned projects. Yet we still sing the song of developing Nyandarua County! How can we develop the County? It is high time we woke up. Using imagery, we are all in a boat that has holes hence posing a danger of capsizing soon. The people concerned should consider matters of development in all directions especially to ensure that no money for development expenditure is returned to Treasury. If one does not use the money they have been allocated, it shows they are a poor planner or implementer. The people of Nyandarua will not be happy if we do not fully utilise the money allocated for development. It is the high time we seriously worked to make our people happy.

Thank you Mr. Speaker.

Speaker: Yes Hon. Suleiman Kimani.

Hon. Suleiman Kimani: Thank you Mr Speaker. The County Government has two arms: The Executive and The County Assembly. As a County Assembly, bearing in mind that we do legislative work, we have not failed in our work. Actually, we do approve budgets but we have problems when it comes to implementation. The Executive fails to implement what we

pass as an Assembly. Everyone working for Nyandarua should carry their own cross. We cannot crucify everyone working for Nyandarua.

We are asking the Executive to prepare the BQs, I do not know what the Executive was doing before the budget. They should have prepared the BQs. We should not carry the cross for someone else. If any department returns money to the Treasury, we should force the relevant persons to go home.

Thank you Mr. Speaker.

Hon. Michael Kirumba rises on a point of order

Speaker: What is it Hon. Michael Kirumba?

Hon. Michael Kirumba: The matter at hand is of great concern and requires clarity. The Statement itself does not offer direction on who will be held responsible with regard to the resolutions of this House pertaining to it. Which committee will take up the matter after we have aired our concerns? We cannot leave this matter hanging bearing in mind that only 8% of the money for development expenditure has been used.

We should amend the Statement to offer direction on who should take up the matter lest we end up airing our concerns and have no one or a committee to take up the matter raised by this very important Statement. 8% absorption rate tell us that we are in “ICU” already. We need your direction Mr. Speaker, on whether we should amend the Statement to include who should respond to the concerns raised on the floor of this House, concerning the Statement at hand. Thank you Mr Speaker.

Speaker: Actually, the Standing Order is very clear that the issue raised by the Statement is of topical concern. The statement is general; but Standing Order 43 (3) provides that a member can contribute on the floor of the House for three minutes. Once the members raise their concerns, the matter will be referred to Implementation Committee. This committee will be expected to consider this matter as a matter of urgency and therefore bring back a report on the same within one week. Yes Hon. Paul Nderitu.

Hon. Maina Nderitu: Thank you Mr Speaker. I would like you to clarify something. Yesterday I talked about sectoral committees. It will take too long for my committee to deal with this matter. This is because we will have to invite all the CEC members. I think this matter should be dealt with by the Committee of the Whole House I am also of the opinion that for this issue to be dealt with in the shortest time possible, it should be dealt with by the Liaison

Committee. This is because committee chairpersons have information on the relevant Executive departments especially on development expenditure. So they would come up with reports on this issue and then present them to Implementation Committee for compilation of the final report.

Speaker: Hon. Maina Nderitu, the Liaison Committee met and discussed the matter that you have raised on the floor of this House and agreed that the chairpersons of various sectoral committees together with committee members should follow up on the relevant Executive departments.

The Speaker consults with the clerk-at-the-table

Hon. Members, the issue raised by the Statements will be referred to various sectoral committees. Within two weeks every sectoral committee will be expected to come up with a progress report and hand it over to the Implementation Committee, the latter which will be expected to compile the final report for tabling on the floor of this House.

Today's order paper has a lot of things and the final order is a procedural motion on the motion on the adjournment of the house and we have recently seen the house lacking quorum before exhausting the business of the day. I now want us to move to the next order

Question put and agreed to.

Speaker: The speaker has not dictated that the house moves to the next order but the house has made the ruling.

MOTION

REPORT OF THE WATER, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE IN RESPONSE TO A STATEMENT REQUEST BY HON JOHN KIERU WAMBUI CONCERNING THE OWNERSHIP AND STATUS OF OWNERSHIP AND MANAGEMENT OF NYAKANJA WATER AND SANITATION COMPANY.

Hon. Kiruka Mburu: Mr Speaker sir I think this is resumption of business because I had gone through chapter one of the report before the house lacked quorum. Let us got through the committee's findings.

- 1. How was the Society reconstituted into a Company, what are the resolutions to that effect and whether the same were procedurally passed?**

Mr Speaker Sir, in the broadest sense, there are two types of companies namely: Limited and Unlimited Companies. The companies are limited in the sense that they are held accountable to the debts of the Company to a certain extent. Such companies may therefore be limited by guarantee or share capital.

A company is said to be limited by guarantee if the liability of its members is limited by the memorandum to such amounts as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up for the debts and liabilities of the company contracted.

The Committee noted that certain individuals now directors without permission or knowledge of the majority of the members of the Society proceeded to incorporate and unlawfully appointed themselves as director. It was also noted that the members' consent was never obtained when the Society's Constitution and By-laws were changed. The following documents were availed to the Committee:

- a) A Certificate of Incorporation,
- b) A Copy of the Company's Memorandum of Association,
- c) A copy of the Company's Articles of Association, and,
- d) A copy of license from the Registrar of Companies.

There are no explicit minutes showing the resolutions by members of the Society to transform it into a company. It was however referred to in some minutes submitted to my committee for a meeting held on 20th of January 2012 where members had been told that the property on which the project stands could not be registered in the Society's name. The land was registered under the names of three trustees namely;

- a) Amos Wamithi Mwangi,
- b) Daniel Macharia Kimundu, and,
- c) Felicity Wangechi Githinji.

Mr Speaker Sir, It is however interesting to note that there is a Title Deed of Title Number Nyandarua/Olgoro-olok/ Salient/5971 registered under Nyakanja Water Services Provider Society given on the 9th of September 2015. This is despite the fact that the Society had been incorporated into a Company in the year 2013. Further, my committee was perplexed to note the following:

- a. That the Company had not had an Annual General Meeting (AGM) since the year 2012 and has continued to operate without accountability to shareholders. No formal notice or official notice was provided and none has been convened to date and no serious attempts have been made to cause a general meeting to be convened.
My committee agreed the running of the company is unconstitutional, undemocratic, unfair and oppressive.
An AGM is generally the accepted principle and legal mechanism of accountability of companies to its shareholders
- b. The Company did not have proof that it has been filling annual returns with the Registrar of Companies. The Directors assume the responsibility of ensuring that the Company abides by all legal requirements that include accountability to the law, operations, liabilities and assets, to mention but a few.
- c. The grave failures to observe the above may cause the Company be struck off the Register of Companies under section 125, 131 and 148 of the Companies Act.

2. How was the membership together with the assets and liabilities of the Society transferred, if at all, to the Company?

(a) Membership:

The Companies' Articles of Association list the following as the proposed number of Members;

- a) County Council of Nyandarua
- b) Area Member of Parliament
- c) Provincial Administration
- d) Ministry concerned with Water and Sanitation
- e) Major religious Organization
- f) Major Farmer's Organization.
- g) Major education institution in the area
- h) Kenya Chamber of Commerce, Nyandarua branch
- i) Private sector
- j) Nyandarua Institute of Science and Technology
- k) Maendeleo ya Wanawake - Nyandarua North.
- l) Representative of disabled people in the area of jurisdiction.
- m) Representative from the professional bodies in the area of jurisdiction.

Mr Speaker Sir, in light of the above composition of members and in particular the membership from the Provincial Administration and County Council of Nyandarua, it was noted by my Committee that the incorporation was on the 27th of February 2013 which was a week to the General Elections of 4th of March 2013, that ushered in the devolved system of Government and led to the restructuring of the Provincial Administration via the National Government Coordination Act 2013.

My committee requested the directors of the Company to submit the names of members of the Company and instead it was provided with a list of 950 consumers. The subscribers of the Company's registration remained as directors of the Company who runs the company without involving the members of society.

b) Assets

There has not been any transfer of Assets whatsoever despite the change of names as per the documents provided. The property on which the project stands as well as the offices are still registered under the three trustees named above and Nyakanja Water Services Provider Society. This contradicts the explanation given by the Chairman of the Company that the essence of incorporating the Company in the year 2013 was to have the Society's property registered under the Company.

The Memorandum and Article of Association indicate that the Company was incorporated as a private company limited by Guarantee and as such does not have a share capital or shareholders. Section 5(3) of the repealed Companies Act (Cap 486) under which the Company was incorporated, provided that the memorandum of a Company limited by guarantee must state that each member undertakes to contribute a specified sum towards the assets of the company in the event of its being wound up while he is a member, or within year after he ceases to be a member.

It was also noted that the Board did not keep an Asset Inventory as provided for in the Water Services' Service Provision Agreement that provided that the Management Committee shall prepare an Asset Inventory within six months of the commencement date of the Agreement.

c) Liabilities

Mr Speaker Sir, there is no explicit document showing the Assets and Liabilities transferred because there was no transfer done. However when requested to bring the list of

Assets and Liabilities to the Committee, the Directors presented a bank statement dated 26-01-2016 which indicates that Nyakanja Water Services took a loan of Kenya Shillings 300,000 with a loan balance of Kenya Shillings 252,016.

The above stated bank statement is still addressed as Nyakanja Water Providers and not Nyakanja Water and Sanitation Company (see copy annexed). The Company also owes the Kenya Power and Lighting Company (KPLC) Kenya Shillings 158, 000 in power bills and a sum of Kenya Shillings 467, 280 to Water Resources and Management Authority (WARMA) in levy.

3. Who are the shareholders of the Company and what are their respective shareholding in the said Company?

Mr Speaker Sir, the Memorandum and Article of Association indicate that the Company was incorporated as a private company limited by Guarantee and as such does not have a share capital or shareholders. Section 5(3) of the repealed Companies Act (Cap 486) under which the Company was incorporated, provided that the memorandum of a Company limited by guarantee must state that each member undertakes to contribute a specified sum towards the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member.

4. The leadership of the Company in terms of Directors and the Board and the process used to put them into office and the last time elections of the Society or the Sacco were carried out and whether the correct procedures were employed;

Mr Speaker Sir, my committee inquired about the mode used to elect the Directors and Board, the chairperson informed members that the leadership is serving in an interim capacity and that they had served as interim officials for more than 3 years. No minutes were availed as proof that indeed the Society members had agreed that the leadership serves in an acting capacity till the conduct of elections for new leadership.

This led to my committee's resolution that the said elections of the directors and board was a sham and conducted in total disregard of the laws and procedures applicable to such meetings. The Minutes availed to the Committee as evidence that the leadership had been elected were plain and lacked vital information like who conducted the elections, who were the aspirants, how many votes were garnered by the said winners and proof that the said minutes

of the AGM of 26th May 2011 were confirmed in subsequent meetings. There was no evidence of shareholders having been vetted on the material day to avoid strangers voting.

5. Whether the Company is licensed to offer water licenses and sanitation services by the Government and under the supervision of which Water Body or Authority with proof of the same being availed.

Mr Speaker Sir, the constitutionally guaranteed right to water provides a strong basis for regulating delivery of services, especially to ensure that this right is progressively realized over time. The National Government therefore has the responsibility to set minimum national standards and monitor the following:

- a) Adherence to minimum standards by providers of water services; and,
- b) Provision of water services within the service area, and progress towards meeting the constitutional right to water.

The current legislation – Water Act (2002) – mandates Water Services Boards to ensure efficient and economic provision of water services under licenses issued the Water Services Regulatory Board (WASREB). The draft Water Bill, 2014 envisages that the national water regulator will directly license water service providers operating in the counties.

The duty of county governments to deliver water and sanitation services, in turn, extends to a wide range of activities which lead to the actual provision of water and sanitation services. Among the specific functions in the delivery of water and sanitation services include:

- a) Development of water and sanitation works to enable the supply and delivery of water sanitation services within respective counties; and,
- c) Provision of the actual water and sanitation service (either directly or through county agencies).

Mr Speaker Sir, the Water Resources Management Authority (WRMA) is the lead agency in the management of water resources in the country. It plays a vital role to regulate, manage and equitably allocate the national water resources to all users.

My committee was informed that the Company had a Water Service Provision Agreement with the Rift Valley Water Services Board and a permit from the Water Resources Management Authority (WRMA) to offer water services and tabled a copy of the water permit. Upon scrutiny of the tabled Water Permit by the Committee, it was noted that;

- a) The Permit expiry date was the 21st of October 2014,
- b) The Permit holder in this case Nyakanja Water Service Provider category of application was that of a Society; and,
- c) The Water Service Provision Agreement is between the RVWSB and Nyakanja Water services Provider and not the Nyakanja Water and Sanitation Company.

This means that they are not supposed to be supplying water as a company because the agreement they have between them and the RVWASB is to supply water as a society.

6. How the Company determines the area of water distribution and coverage, the volume of distribution, the applicable water tariffs and the terms and conditions of supply to consumers.

The Committee inquired on the area of water distribution and coverage, the volume of distribution, the applicable water tariffs and the terms and conditions of supply to consumers and found out that the area of water distribution and volume was based on a map of the Service Provider Service Area (see copy annexed). The map has a service area and a specific sub-areas.

From the abstract map of the area distribution, it was hard for my committee to ascertain the accuracy and correctness of the data that shows water service coverage and the average percentage of water distribution. My committee resolved that the map is unreliable and inconsistent to be relied upon. It lacked key performance indicators like:

- a) The hours of Supply per day to ascertain the volume of water; and,
- b) The Metering Ratio.

On the issue of the terms and conditions of supply to consumers, the Company retains the right of disconnection of services to properties for non-payment for water and sewerage, take legal action for breach of obligation by customers and others causing damage or adversely affecting the services (see copy annexed) and maintain all works related to water supply and sewerage systems derived from the Water Service' Service Provision Agreement.

The applicable tariff adjustments are within the obligation of the Water Service Regulatory Board (WASREB) upon being proposed to by the Rift Valley Water Services Board (see copy of the Agreement annexed).

My committee is however alive to the fact that Section 5 of the Public Finance Management Act (PFMA) gives county governments power to set tariffs for water and sanitation services.

7. Whether the consumers have benefited from the waiver of payment and what are the criteria for their identification?

The Committee was informed that the Company had given a waiver of payment courtesy of their pro-poor service to twenty four people. (**See copy annexed**). The beneficiaries of the initiative are either disabled, poor or widowed.

It was however noted that list of beneficiaries submitted by the Company's Chairman did not explain the amounts waived for the monthly bills and the time that the waiver was granted.

8. How sustainable is the Company and what plans are in place to ensure its posterity.

The directors of the Company informed the committee that although the Company has a great potential, it is barely meeting its operational costs and is therefore finding it difficult to sustain itself. The water tariffs do not raise enough funds to sustain its operations and in fact the Company has applied to the Water Services Regulation Board seeking a review of the tariffs with an interest of increasing them from the current three hundred shillings to four hundred and fifty shillings.

The Company intends to implement an increment in the water tariffs to make the project sustainable, an unfruitful meeting held to discuss the matter held on the 22nd of October 2015. Consumers are opposed to the said adjustments noting that some areas do not receive water despite being in the project's jurisdiction.

9. What are the sources of funds for the company in revenue, loans, gifts or grants?

The major source of funds is the water tariffs and connection fees. The Company has also benefited from grants from the Oljoro-olok CDF and County Government. The project received Kshs. 350,000 from the CDF and water pipes from the County Government, however, the County Executive Committee Member in charge of Water and Sanitation seemed unaware of the donation.

The Company through its directors is seeking funding to establish a bottling company and construction of a dam for irrigation purposes. The proposals were tabled before the committee. It is worth noting that the project is enlisted in the CIDP as a project to be funded by the County Government and this is causing conflict among consumers who believe the Company being a private company will deny them a chance to benefit from any government funding.

10. What is the workforce of the Company either personnel contracted permanently or on short term basis and what are their qualification

The Committee was informed that the staff establishment as at 2016 was seven staff members, the qualifications stated in a document presented to the Committee by the Chairman did not provide the extent of qualification of the Manager, Supervisor, Pump Attendant and Office Clerk (see copy annexed).

It was further noted that the Company does not pay the compulsory statutory deductions of the NHIF, the only statutory deduction paid is that of NSSF. The Committee was informed that the staff were not on permanent employment.

11. How many Properties does the Company hold and what is the registration status of the properties and who is the custodian of the title documents

The Company has a 17.0 hectares of land which was allocated by the then District Commissioner and land registered under the Trusteeship. The names of the Trustees are

- a) Amos Wamithi Mwangi,
- b) Daniel Macharia Kimundu, and,
- c) Felicity Wangechi Githinji.

Mr Speaker Sir, the Company also owns a plot of land measuring 0.0046 hectares and the title deed is registered under Nyakanja Water Services Provider Society. Of importance is that the said title deed was given on the 9th of September 2015 despite the fact that the Company had by then been incorporated. Other assets owned by the Company are (**see copy attached 7**);

- a) Three water tanks at Nyakariang'a, Kianjata and Kanguo
- b) Three water Pumps – I functional, I completely disabled and I intact but not functional
- c) Office furniture comprising:

- i) 2 Office Tables, b. 4 Arm Chairs, c. 2 Benches, d. 1 Cabinet e. 1 Book shelf
- j) Pumping House constructed of reinforced concrete
- k) A disused fishpond
- l) A Perimeter fence of cinder posts, mesh wire and barbed wire
- m) Electricity Power Transformer, and,
- n) Water Pipes assorted sizes.

Hon. Kiruka Mburu states that there is no quorum.

Speaker: Clerk, confirm whether we have the quorum.

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

Speaker: There being no quorum, according to the Standing Orders and I direct that the division bell be rung for about 8 minutes or rather until that time that quorum is achieved.

Division bell is rung for 3 minutes and the clerk-at-the-table confirms that there is quorum

Speaker: Hon. Kiruka you can proceed.

Hon. Kiruka Mburu: Thank you Mr Speaker, quorum having been achieved I continue. We are discussing about water and the Members of this House are saying that my committee is not working but when I bring this report, they are not willing to support it. We now go to the recommendations of the report.

Mr Speaker Sir, the Committee recommends as follows;

1. The properties of the Society be registered as such to avoid future conflicts and possible grabbing.
2. The County Government prioritizes the task of identifying current water operations by the various existing Water Service Providers in the County by understanding their Budgets, their financial viability and sustainability and performances and their operations with the ultimate aim of merging the multiple water companies in the county into a single county water services provider.
3. The County Government establishes a County Water Forum that will offer an important way to support learning and engagement between it and the National Government which is constitutionally mandated to offer technical assistance to counties.
4. The County Executive and County Assembly in line with Articles 183 (3) and 185 (2) respectively of the Constitution, prepares and makes legislation that is necessary for,

the effective performance of the county government function and powers (both legislative and executive), of management of water and sanitation services.

5. The County Executive mobilizes water users and riparian land owners for cooperative management of water resources to enable effective manage of water resources and protect water catchments in their areas.
6. The County Executive develops markets for investments in the water and sanitation sectors.
7. The County Executive mobilizes increased donor and other financing of water and sanitation initiatives.

Hon. Kiruka Mburu: I wish to call Hon. Ndirangu to support this report for adoption.

Speaker: Yes, Hon. David Ndirangu.

Hon. David Ndirangu (County Member): Thank you Mr. Speaker I rise to second this very important matter that is before us, done by the committee because this is a thing that should not be taken lightly for it is even a criminal case when one tries to change a society that is a water provider to a water company. I therefore urge this House to support this report without many amendments but as the resolutions state, this company should stop receiving government funds till the matter is well determined by the court of law or intervention of the County Government. Thank you, Mr. Speaker.

Question proposed

Speaker: Yes Hon. Kieru Wambui.

Hon. Kieru Wambui: Bwana Spika, thank you very much. I want to first appreciate the Hon. Members of this committee for the time they have taken to deliberate on this very crucial matter. This matter has got a recommendation that I want the Hon. Members through you to understand and I therefore want to support this report. I appreciate the efforts of the committee Members who spared their time to even visit the site so that the report can be comprehensive.

You realize that the annexures of this report are actually many than the report itself. This shows that actually this committee has left no stone unturned on this matter. You also realize that we are doing this matters not only for Gatimu but also the entire County and therefore wherever they are, their committees, the facilitation by the office of the clerk and the support by the office of the speaker do not go unnoticed by the office of the area representative. This

include the support and the appreciation by the members of the area. Mr. Speaker you are going to realize that this report has come at the right time in as much as issues to do with water are also devolved.

The County Governments have been given the mandate to manage water resources and conservation areas noting that the National Government is mandated to provide frame work on policy issues with respect to water issues. We are also not ignorant the National Water Act that provide a framework or else a manual for County Governments to do their water bills. This has brought on board the Nyandarua Water Act or Bill that is being prepared by the department of water and maybe subsequently brought to the County Assembly for adoption.

Mr Speaker, I want to support this report with an amendment but before I go to the amendment I want to highlight very key issues that brought on board the matters of this company's water quagmire that has affected the area residents. You realize that the matters here are with all concerns;

1. The leadership.
2. The confidence of the consumers with respect to the leadership of the said organization.

Those have been the problems that have led to the society not meeting and also not conducting elections as stated by their own bylaws. (See annexures of the bylaws). So if all these things are lacking, the general public and people in the said organization feel short-changed. These problems not only affect the organization but also other water organizations in Nyandarua County.

Mr Speaker, I would wish to refer you to recommendation No. 5 on page 16, it says: The County Government prioritizes the task of identifying current water operations by the various existing Water Service Providers in the County and understanding their Budgets, their financial viability and sustainability and performances and their operations with the ultimate aim of merging the multiple water companies in the county into a single county water services provider.

If this will be the soul resolution of this assembly, I believe it will go in line with the Kenya Water Act that allows the management of water organizations by the County Governments and actually conservations of water reservoirs in the county and the country at large being mandated to the County Government. For this to happen, we need a law that will

bring on board all water service providers, bring them together, provide unilateral regulations that will control and merge them to be centrally managed by the County Government of Nyandarua. For instance, we have the Ol'kalou Water and Sanitation Company which does its own things and do their work following their own mechanisms which may be in contradiction with the Nyandarua water master plan with respect to Ol'kalou town just because they are a company. But this company does not exist on its own. It is situated in Ol'kalou and Nyandarua County. There other companies called Nyandarua, Nyakanja and others in Kinangop. If these companies continue operating this issues of water by their own..., and that is why we emphasize the need a Water Act that will merge them until we have unilateral regulations that will govern our water organizations.

Mr Speaker, I also want to thank the committee for addressing all the eleven issues that my statement sought for. Hon. Kiruka has elaborated, quite well, all the eleven points in the report but I want to zero in on my statement with respect to an amendment to the resolutions, if you allow, under the provisions of the standing order number 54.

Speaker: Hon. Kieru permission is granted.

Hon. Kieru Wambui: Thank you Mr Speaker, I would then like to move an amendment on recommendations one and two of the report as follows: The first recommendation reads;

That the county government of Nyandarua, through the County Attorney's office reverts the company's ownership to the project owners who are the community. This means that the members of Nyakariang'a, Kanguo and Kianjata areas and stakeholders pursue legal redress in court to safeguard their investment.

If we go by that, the spirit of this report will be watered down. If we want the people of these areas to seek legal redress, what is this House doing? I wish to delete this recommendation and instead insert the following recommendation:

- 1) (a) That the members of Nyakanja Water Services Provider Society as appearing on the members register should convene within 30 days of the date hereof with a view of conducting elections for the society's officials and ensure a smooth handover of office.

Mr Speaker, allow me to propose the amendments together and they can be seconded together.

Speaker: Let us dispose of the first amendment first.

Hon. Kieru Wambui: Thank you Mr Speaker. These people have three years since they last held a general meeting. The leadership of this society is in shambles and I am only wondering who will oversee these elections. I hail the committee on Water for their success in this mission of bringing these people together after so long and I am sure that they will take the resolutions of the House back to the shareholders. I would, however, propose that the committee oversees the elections because if we leave it to the leaders to call for these elections, they will not.

Hon. Kiruka Mburu rises on a point of information.

Speaker: What is it member for Charagita?

Hon. Kiruka Mburu: I support what the member for Gatimu is saying but I would like to remind him that ours, as an assembly, is not to implement, rather, our mandate is to represent and oversight. What we resolve here will stand committed to the executive to oversee its implementation.

Speaker: Member for Gatimu, I believe you have been sufficiently informed. Proceed.

Hon. Kieru Wambui: Thank you Mr Speaker. The county executive should ensure that the leadership of this project implements these recommendations in 30 days.

Hon. Maina Nderitu rises on a point of order.

Speaker: What is it member for Kiriita?

Hon. Maina Nderitu: Is it in order for the member to propose that a resolution be implemented within 30 days yet our standing orders indicate that implementation is to be done within 60 days?

Speaker: Actually, the Chairperson of Implementation is right; however, members could move a motion here and resolve that certain resolutions ought to be implemented within 30 days.

Hon. Kieru Wambui: Thank you Chairperson of the committee on Implementation. However, the Standing Orders indicate that the resolutions are to be implemented within sixty days and 30 days is still within sixty days. The second part of the amendment 1(b) is to the effect that the County government through the department of water does facilitate the issuance

of a water permit to Nyakanja Water Services Provider Society. I wish to move the amendment and call Hon. Kiruka Mburu to second.

Speaker: Yes Hon. Kiruka Mburu.

Hon. Kiruka Mburu: I second the amendment.

Question proposed

Question put and agreed to.

Speaker: Proceed member for Gatimu.

Hon. Kieru Wambui: I wish to propose the second amendment that in addition to the 10 recommendations, we include recommendations 11, 12 and 13 as follows:

11. That there is no correlation, whatsoever, between Nyakanja Water Services Provider Society and Nyakanja Water and Sanitation Company Limited and, as such, Nyakanja Water Services Provider Society should continue to exist as such.

12. That the names of the Nyakanja Water Services Provider Society as appears in its official documents including title deeds and bank accounts should be harmonized and included in the registered name of Nyakanja Water Services Provider Society to avoid any and all confusion in the operations of the society.

13. Nyakanja Water and Sanitation Company Limited has no purpose as it pertains to the management of Water services to the Nyakanja community and should be dissolved forthwith and in any event within sixty days from the date thereof.

I call Hon. Maina Nderitu to second.

Hon. Maina Nderitu: Thank you Mr Speaker, I second the amendment.

Question proposed.

Hon. Kinyanjui Gachari: I rise to support the amendment.

Question put and agreed to.

Speaker: Proceed Hon Kieru.

Hon. Kieru Wambui: Thank you Mr Speaker; I wish to thank the Members for their support in regard to the amendments. In the interest of time and the fact that the report speaks

for itself, I will not say much. I hope, however, the mover, in his closing remarks will indicate whether he, and his committee will accompany the executive and ensure what we have resolved here is implemented.

Speaker: Chairperson of the Committee on Water please respond.

Hon. Kiruka Mburu: Thank you Mr Speaker, during our visits, we were accompanied by Hon. Kimani Njiraini who is also a member of this committee and was instrumental in coming up with this report and I would, as a sign of gratitude, donate one minute to him.

Speaker: Yes Member for Kaimbaga, Hon. Kimani Njiraini.

Hon. Kimani Njiraini: Thank you Mr Speaker sir. I would like to appreciate the member who requested for this statement. We visited Nyakanja and all we saw has been indicated in the report. The project holds great potential in providing water to the electorate that brought us here, if only it is managed well.

We would like to urge the department of water to come in and regulate the operations of this society so that they can also regulate the billing. Most of the complaints we heard were about discriminatory billing and we believe this can be resolved if the department applies stringent regulations. Mr. Speaker, you will be surprised to learn that Nyakanja water project could supply water to even Ol'kalou. Our people ought to have unlimited access to such basic needs as water, fertilizers and AI Services. Thank you Mr. Speaker, I support.

Speaker: Chairperson, Committee on Water Services, Hon Kiruka Mburu, please proceed.

Hon Kiruka Mburu: Thank you Mr Speaker, I wish to thank the members of my committee for their cooperation; we actually visited the place twice and we even went into the forest where...

Speaker: What is it member for Shamata?

Hon. Kinyanjui Gachari: Mr Speaker, I feel I have been locked out of this debate yet I had something to contribute.

Speaker: Member for Shamata, you are out of order. The only way you can contribute is if the mover donates some time to you. Proceed member for Charagita.

Hon. Kiruka Mburu: Thank you Mr Speaker, I know the member for Shamata is highly interested in this issue and I would like to donate half a minute to him, if allowed.

Speaker: Proceed Member for Shamata.

Hon. Kinyanjui Gachari: Thank you, Mr Speaker and the chairperson of the committee of water. I want to state here that the problem of lack of clean water is also high in my ward. We all know they are well aware of how and who started the society. Let the project be managed by the community; let the Nyakanja community be given what is rightfully theirs.

Speaker: Proceed Hon. Kiruka.

Hon. Kiruka Mburu: Thank you Mr Speaker, I think we have deliberated on this issue sufficiently and I do not intend to belabour on it anymore. However, I cannot forget to thank the members of the Nyakanja community for availing themselves whenever we sent them an invitation. I would also like to acknowledge Hon. Kieru for fighting for the rights of the people. That is the way to go. Lastly, I wish to thank the members of this House and the office of the Speaker and the clerk for their support throughout this exercise. Thank you Mr. Speaker, I beg to move.

Question put and agreed to.

Speaker: Next order.

MOTION TO BE MOVED

ROAD SIGNAGES

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

Hon. Kariuki Muchiri: I rise on behalf of the deputy leader of majority to seek leave that this motion be moved when we resume from recess. This is a sensitive motion and I would like all the members of the House to participate fully.

Hon. Kimani Njiraini rises on a point of order

Speaker: What is it member for Kaimbaga?

Hon. Kimani Njiraini: I thought it was prudent that we dispose of this motion to stop this wastage of money.

Speaker: Hon. Njiraini, the motion has not been moved and therefore you ought not to know the content of the motion. The leave is granted and the House Business committee will allocate the time for its motion.

Speaker: What is it member for Kaimbaga?

Hon. Kimani Njiraini: I have some information...

Speaker: No one requires the information. Please resume your seat. Next

PROCEDURAL MOTION.

Hon. Kariuki Muchiri: I beg to move the following motion;

That Aware that the House adjourns for short recess on the 31st day of March 2016 and set to resume on 19th day of April 2016; further aware that the third devolution conference is set to take place on 19th to 23rd day of April, in Meru County;

concerned that the need to have full participation of the members of the Assembly, I beg to move a motion under Standing Order 29, that this House does resolve to alter its calendar and resume from the short recess on 26th day of April, 2016. Before I move this motion, I would like to propose an amendment to the motion because the standing order cited is 28 (4), and not, 29.

The Speaker consults with the clerk-at-the-table.

Speaker: The motion cannot be amended before it is moved. Move it the way it is first.

Hon. Kariuki Muchiri: Thank you Mr Speaker. This motion is aimed at altering the Assembly's calendar which indicates that the short recess would be from 1st April 2016 to 19th April 2016. This means that we should resume from short recess on the 19th day of April 2016. This date corresponds with the day the members are to travel to Meru for the third devolution conference as per the invitation by the council of governors which will run up to 23rd April 2016. So that the members can participate we need to move the dates to such a time that the members will have an opportunity to attend devolution conference.

As it were Mr Speaker, the short recess ought to end on 19th April 2016, a day that coincides with a day that Hon. Members will be leaving for the third devolution conference in Meru. Therefore, this is a major factor necessitating the alteration of our Legislative Calendar.

To that end, I wish to call Hon. Njiraini to come and second the motion. Thank you Mr. Speaker.

Speaker: Yes, Member for Kaimbaga, Hon. Kimani Njiraini.

Hon. Kimani Njiraini: Thank you Mr Speaker. I second.

Speaker: I was expecting Hon. Njiraini to add something because he had already contributed and had also indicated he had some input. He may not have another chance to give his input now.

Question proposed.

Speaker: Now Hon. Kariuki Muchiri, you need to invite another member to move an amendment before you respond.

Hon. Kariuki Muchiri: Since the members might not be aware of that amendment, I think it is important to move the procedural motion of amendment again and thereafter I call another person to second.

Speaker: Correct Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr Speaker. I beg to move a procedural motion of amendment so that paragraph 5 is amended by deleting the numbers 9 between 2 and 4 and interchanging the same by number 8. I now call upon Hon. Josphat Kamau to second.

Speaker: Yes, Member for Leshau Pondo, Hon. Josphat Kamau.

Hon. Josphat Kamau: Thank you Mr Speaker, I wish to second, the amendment on paragraph 5 so that it is amended by deleting the numbers 9 between 2 and 4 and interchanging the same by number 8. Thank you.

Question put and agreed to

Speaker: Proceed Hon. Josphat Kamau.

Hon. Josphat Kamau: Thank you Mr Speaker. I rise to support this motion on altering the Legislative Calendar so that members can resume from recess on 26th instead 19th April as initially indicated. This is bearing in mind that members of this County Assembly also need to attend devolution conference in Meru.

We have attended the previous two conferences and it is only important that the tradition we set continues. Members should attend this particular conference so that they become aware of what is transpiring in other county assemblies in the country. Again, putting into perspective that we are headed for the general elections, we should go and get a clear picture of what devolution has done for our people. I believe it is of paramount importance that members do attend the forthcoming conference. For this to happen, we need to extend the recess period. Thank you Mr. Speaker and I invite the mover to come and respond.

Speaker: Yes Majority Leader, Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr Speaker. I would like to thank the Hon. Members for supporting this motion and actually supporting the procedural motion as provided for in the Standing Orders. Having said that, I beg to move.

Question on amendment put and agreed to.

Speaker: Next order!

ADJOURNMENT MOTION.

Speaker: Yes, Leader of the Majority Party, Hon. Kariuki Muchiri.

Hon. Kariuki Muchiri: Thank you Mr Speaker. I beg to move a motion pursuant to the provision of standing order 29 (3);

That, this House does adjourn for short recess from the 1st day of April 2016 to the 26th day of April 2016 as per the Legislative Calendar adopted by this House.

Deputy Speaker (Hon. Wambugu King'ori) leaves the chair.

Temporary Speaker, Hon. Rahab Wanjithia, assumes the speaker's chair.

Madam Speaker, this is very important because we have been here discussing matters of the county. This time is particularly important because we need the Hon. Members to go back to the electorate so that they can play their oversight role on the works that are being carried out by the Executive in their wards. In addition, they also require time to interact with the electorate. The Hon. Members also need time with their families in order to relax. The reason is that the members have been here, conducted business of the House and therefore they need a rest.

Madam Speaker, I feel that it is necessary that the members go for a short recess. I also think it is the reason why it is slotted in the legislative calendar. I also believe that every member in this House will support the adjournment so that they can go and perform other tasks in the wards that relate to them. With those brief remarks, I wish to call upon the Majority Whip to come and second this motion.

Speaker: Yes, Majority Whip, Hon. Kinyanjui Gachari.

Hon. Kinyanjui Gachari: Thank you Madam. Speaker. I wish to support this motion of adjournment. It is important that we have rest because even God rested. I therefore second this motion since I believe that there is a lot of work that needs to be done in our respective areas of representation. We need to go to see whether grading is being done in the appropriate manner. Again, we need this break because we have actually worked very hard to ensure that all reports by different committees have been written and brought in the House despite the fact we had to dig deep into our pockets since we were not paid our allowances up front. I therefore

urge the House to ensure that members are be paid in advance so that they can have something to spend while doing their work. The CASB should make sure that the members are paid their dues. Thank you Madam Speaker, I second.

Question proposed.

Speaker: Yes, Member for Gathanji, Hon. Samuel Thuita.

Hon. Samuel Thuita: Thank you Madam Speaker. I rise to support this motion and wish to propose an amendment on the motion that in the in the first sentence therein be replaced between the word ‘order’ and 3, the numerals 28. This is in line with the Standing Order number 28 (3). Thank you and I now call upon Hon. Ndirangu to second.

Speaker: Yes county member from Weru, Hon. David Ndirangu.

Hon. David Ndirangu: Thank Madam Speaker. I second.

Question on amendment proposed.

Question on amendment put and agreed to

Speaker: Proceed Member from Gathanji.

Hon. Samuel Thuita: Thank you. As I support this motion, I would first of all wish to condemn what has happened in the National Assembly. It is unfortunate that some Hon. Members in the Joint Sitting opted to boo the president of this republic. It is important that the opposition realize that the seat of the presidency represents the entire country and therefore President Kenyatta was not giving a speech as a leader of Jubilee but as the president of Kenya. Therefore, every citizen of Kenya should condemn the happenings.

The opposition has heckled the president which is contrary to the Standing Orders. During the state of the nation address, all members ought to maintain silence until the speech ends. The County Assembly of Nyandarua should also condemn the action because it is disrespectful to the presidency.

Madam Speaker, I wish however to support the motion of adjournment so that the members can attend the third devolution conference. In addition, the planned seminars and workshops can move on smoothly as scheduled. With those remarks, I support.

Speaker: Yes county member from Githioro, Hon. Dorcas Kihara.

Hon. Dorcas Kihara: Thank you Madam Speaker. I rise to support the motion in view of the fact that God had to rest on the seventh day. It is important then that the members have a break so that they can go and visit the electorate while at the same time play their oversight role. It is also paramount that the organized workshops and seminars flow smoothly without interruption of the businesses of this House.

The third devolution conference is also very significant for members because it makes them aware of the challenges to expect as they play their roles. The members ought to know how other county assemblies are coping with emerging challenges. Meru, the town that will host the conference is a small town unlike Kisumu and Mombasa.

I request the Board to ensure that the sergeant-at-arms' office is facilitated so that it can ensure that the members get accommodation while in the town because it would really inconvenience the members to go up and down looking for accommodation during the day when the conference will begin. Many members would wish to be at the commencement of the conference so that they can participate and learn from other county governments.

The recess is also very important so that members can create businesses for the next session. This is because the members will know the problems facing our people and consequently generate motions aimed at addressing the problems. Apparently, when the Assembly is on, most of us do not have ample time to interact with the electorate and understand the issues facing them. In view of the fact that politicking ahead of the next general elections has already started, the members also wish to be on the ground and tell the people what is being done. We should also be able to clarify why we are not always available in the wards on daily-basis. This period is therefore important because we can go and conduct civic education on our roles as MCAs.

Madam Speaker, as we proceed for recess, I believe that internet banking is now up and we would wish and pray that all the arrears owed to the members be paid. This will help us develop at a personal level. Apart from being representatives of the people, we also have the responsibility of personal development and growth. Without money, I think it is impossible for us to do it.

I congratulate the Hon. Members for their patience because we have worked wholeheartedly notwithstanding arrears. This is unlike in other counties where members cannot travel from their county without having been paid their allowances in full. I would say that the members have been very understanding to the Board and have not failed to do their work with or without pay. Since the Leader of Majority is in the House, he should make sure that the members have been paid all their dues in order to reciprocate the honour we have bestowed unto them. I know there is money and we have enough staff members to ensure that this happens. In fact, the ratio of staff members to the Hon. Members is two to one (2:1) and I cannot see the reason why this cannot happen. With those remarks, I support. Thank you.

Speaker: Yes Member for Kaimbaga Ward, Hon. Samuel Kimani Njiraini.

Hon. Kimani Njiraini: Thank you Madam Speaker. I would like to support the motion of adjournment because we all need to go to our wards and play our roles. It is important to oversight so that the public funds are not siphoned. As we go for recess, I would like to congratulate the Hon. Members for their patience and hard work.

When the members of the National Assembly go for their recess, they are considered for eight sittings but here, we are considered for four sittings only. Since the chairman is here with us, he should ensure that this issue is addressed. The issue of when we are outside the precincts of Assembly and in the committees should also be looked into.

Madam Speaker, you heard about the issue of devolution conference in Meru and in particular, the issue of accommodation in Meru town. I think there is a lot of *Miraa* in the town and a member who might not get good accommodation can have them to relax.

Laughter

Madam Speaker, I understand it is very frustrating on the part of the president of Kenya for the mayhem that was witnessed in the National Assembly. As the representative of the people of Kaimbaga, I wish to condemn the action of some of the parliamentarians who blew whistles in the assembly. This is why you see some of them going to preach like Jesus and their podiums collapse.

Laughter

I understand that they also envision becoming leaders and even presidents. However, you do not expect to be respected when you become a leader if you won't respect the current leaders. With those few remarks, I support.

Speaker: Yes county member from Weru, Hon. David Ndirangu.

Hon. David Ndirangu: Thank you Madam Speaker. I will just take a few minutes to support the motion on adjournment because it is important that the members go and rest. As we rest, we will also have a chance to visit various areas we have not been able to when playing our oversight role.

Madam Speaker, I would equally wish to condemn the barbaric actions that took place in the National Assembly. They would have waited for the speech to end and thereafter criticize it because they would have known the content. These barbaric actions set very bad precedence for the young people. If someone is advising his foot soldiers to go and shout down the president, it shows that he himself can never become the president of this country. We are calling upon the electorate to make the right choices and vote for leaders who can observe decorum in the National Assembly.

We do not need such leaders and in case they themselves become presidents of this nation, which I highly doubt, they would need some respect. This was very unfortunate and obviously out of order and as a county, we condemn it fully.

Madam Speaker, I take this opportunity to congratulate our new Leader of Majority Party, who is currently consulting. I wish him well and tell him that we are behind him in all his endeavours especially of ensuring the County Assembly is moving in the right direction. With those few remarks, I support and now wish to call the mover to respond.

Speaker: The motion mover.

Hon. Kariuki Muchiri: Thank you Madam Speaker. Before I thank the members for their contributions, I wish to respond to some issues that have come up. The first one was raised by Hon. Kimani Njiraini in regard to the sittings. The SRC's circulars observe that we are only allowed four plenary sittings and four committee sittings and I really do not know what I should do to address the issue. However, I will do further consultations on the issue.

Secondly, I wish assure the members that we shall look at the issue of arrears as a board so that they are paid because when you go out there, you have to spend with *Wanjiku* and family and Thirdly, I would like to respond to the issue of accommodation during the third devolution conference in Meru. I will liaise with the Office of the sergeant-at-arms and request the Hon. Members who would like the office to do the arrangements on their behalf to keep in contact with the office.

This one calls for the importance of fast tracking of the issue of harmonization of committees so that we can have the Welfare Committee in place. And actually, this is the committee that should address such issues. Harmonization is also important for those members who feel that they are disadvantaged so that they can get the opportunity to have their issues addressed.

I also want to highlight as the Leader of Majority Party, the issue of heckling the president during his state of the nation address this afternoon. As an Assembly, we are condemning in the strongest terms possible the barbaric acts of the opposition. Leaders should not behave in such a manner because they have a responsibility to follow and adhere to the laid down procedures of the National Assembly. These rules and procedures are in the Standing Orders, which says that the head of state shall be heard in utmost silence. In utter disregard of the standing order, they have gone ahead and heckled the president. This is why we strongly condemn the action.

To that end, I wish to thank the Hon. Members for supporting the motion. I would like also to wish them a happy and enjoyable time with their families and electorates. Thank you Madam Speaker, I beg to move.

Speaker: Now Hon. Members, this House stands adjourned until Tuesday the 26th day of April 2016 at 2:30 P.M.

The House rose at 4:58 P.M.