REPUBLIC OF KENYA

MURANG'A COUNTY ASSEMBLY

THE HANSARD

Wednesday, 26th April 2023.

The Assembly met at 2:50 p.m.

[The Temporary Speaker (Hon. Kamwaga Mwangi) in the Chair]

PRAYER

PETITIONS

PUBLIC PETITION BY RESIDENTS OF KAMAHUHA WARD ON CONSTRUCTION OF MODERN MARKETS AT SABASABA TOWN AND KAMAHUHA SHOPPING CENTRE.

The Temporary Speaker (Hon. Kamwaga Mwangi): I want to commit this Petition; Petition number four of 2023 of April 25, 2023. Public Petition on construction of modern markets at Sabasaba town and Kamahuha shopping centre.

Pursuant to Standing Order 214 (2) (b), I wish to report that on March 5, 2023 the County Assembly received a public Petition submitted by the residents of Kamahuha shopping centre.

The petitioners drew the attention of the Assembly to the following matter;

- 1) That the residents have no modern markets in Sabasaba Town and Kamahuha shopping centres.
- 2) That there are no street lights in the existing open-air markets.
- 3) That lack of a modern markets affects the economy and financial ability of residents of Sabasaba town and Kamahuha shopping centre.
- 4) That the residents have previously requested the County Government for the construction of modern markets to no avail.

I further wish to state that the Petition is signed by 20 petitioners. The petitioners affirm that the issues in respect of which the petition is made are not pending before any court of law.

The petitioner's prayer is that; -

1) The Assembly recommends that the County Government allocates a budget to construct modern markets in Sabasaba town and Kamahuha shopping centre.

 The County Assembly recommends that the County Government through the relevant department to install street lights in Sabasaba market and Kamahuha shopping centre market.

Pursuant to provisions of Standing Order 216 (1), the Petition is hereby committed to the following Committees; -

- 1) Public Works, Roads and Transport.
- 2) Trade, Industrialization, Co-operative Management, Tourism and Wildlife.

Further, pursuant to Standing Order 216 (2), the Committees shall in not more than 60 calendar days from today, respond to the Petitioners by way of a Report addressed to the petitioners and laid on the Table of the Assembly.

PUBLIC PETITION BY RESIDENTS OF KAMAHUHA WARD ON COLLECTION OF WASTE IN KAMAHUHA WARD.

The Temporary Speaker (Hon. Kamwaga Mwangi): Public Petition number five of 2023 of April 25, 2023. Public Petition on collection of waste.

Pursuant to Standing Order 214 (2) (b), I wish to report that on March 5, 2023 the County Assembly received a public Petition submitted by the residents of Kamahuha Ward.

The petitioners draw the attention of the Assembly to the matter;

- 1) That there is uncollected waste in Kamahuha Ward which does not promote conformity to Article 42 of the Constitution, which provides for the right to a clean and healthy environment.
- 2) That the uncollected waste is causing water contamination along Mutoho River which is a threat to the health of the residents of Kamahuha Ward.
- 3) That efforts have been made to talk to the relevant department concerning collection of the waste but it has borne no fruit.

(Honourable Members walked in as Speaker was on his feet committing the Petitions)

The Temporary Speaker (Hon. Kamwaga Mwangi): Sorry Honourable Members, you are not allowed to walk in when the chair is on his feet, but I request the Serjeant- At-Arms to allow all the other Members to come in. Just come in, but you are supposed to stand at the bar until

the Chair allows you. Kindy come in but I want to take it to your attention Members that when you get the House and the Chair is on his feet you are supposed to stand at the bar until the Chair directs you to get to your seat.

I further wish to state that the Petition is signed by 22 petitioners. The petitioners affirm that the issues in respect of which the Petition is made are not pending before any Court of Law.

The petitioner's prayer is that;-

- 1) That the County Assembly recommends that the County Government allocates a budget for buying necessary equipment for waste collection.
- 2) That the County Assembly recommends that the County Government through the relevant department to come up with a workable and sustainable plan for collection of waste in Kamahuha Ward.
- 3) That the County Assembly recommends that the County Government through the department to ensure that the water ecosystem is not contaminated from uncollected waste.

Pursuant to provisions of Standing Order 216 (1), the Petition is hereby committed to the Energy, Forestry and Natural Resources Committee.

Further, pursuant to Standing Order 216 (2), the Committee shall in not more than 60 calendar days from today, respond to the Petitioners by way of a report addressed to the petitioners and laid on the Table of the Assembly.

PAPER

REPORT OF AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE ON BENCHMARKING VISIT TO RUNG'ETO FARMERS CO-OPERATIVE SOCIETY.

Hon. Hilary Muigai: Hon. Speaker, I beg to lay the following Paper;-

The Report of the sectoral Committee on Agriculture, Livestock and Fisheries on a benchmarking visit to Rung'eto Farmers' Co-operative Society in Kirinyaga County.

Thank you.

(Hon. Hillary Muigai laid the Paper)

NOTICE OF MOTION

ADOPTION OF REPORT ON IMPLEMENTATION STATUS OF BUDGTED PROGRAMS UNDER THE DEPARTMENT OF AGRICULTURE, LIVESTOCK AND FISHERIES AND THE DEPARTMENT OF ICT AND PUBLIC ADMINISTRATION.

Hon. Hilary Muigai: Thank you Hon. Speaker, I beg to give a notice of Motion; -

That the Report of the select committee on Implementation on Budgeted Programs under the Department of Agriculture, Livestock and Fisheries and Department of ICT and Public Administration for the FY 2022/2023 as at December 31, 2022 laid on the Table of the Assembly, be adopted.

Thank you.

MOTION

ADOPTION OF REPORT ON AUDITED FINANCIAL STATEMENTS FOR FORT BEVERAGE INDURSTRIES COMPANY LIMITED FOR THE YEAR ENDED JUNE 30, 2018.

Hon. Ndunda Makau: Thank you Hon. Speaker. I beg to move the following Motion; -

That, this Assembly adopts the Report of the Public Investments and Accounts Committee on audited financial statements for Fort Beverage Industries Company for the Year ended June 30, 2018, laid on the Table of the Assembly on Thursday, April 20, 2023.

The Public Investments and Accounts Committee recognizes that it is the major avenue through which this County Assembly executes its oversight mandate provided for in Article 185. The Committee is therefore dedicated to diligently carry out an ex-post scrutiny of the financial statements of the County Executive, County agencies and County investment entities and the subsidiaries thereof. Mr. Speaker, I know the Members have the Report in their files, I will try to summarize.

Mr. Speaker, let me give the background of this Report. Hon. Speaker, this Report covers operations of the Fort Beverage Industries Company Limited for the year ended June 30, 2018, and it is prepared by the Committee after analysis of the reports by the Auditor General who has the mandate under Article 229 of the Constitution to audit and report on the accounts of the County Governments and their investments.

The Office of the Auditor General forwarded this report on the financial operations of this entity and the report once Tabled in the Assembly, it was committed to the Committee on Public

Accounts, the Committee further conducted a fact- finding visit to the company in regard to the audit queries. In the report there were five audit queries.

- 1) There was incomplete capital share disclosure.
- 2) Mis-stated accounting period.
- 3) Lack of disclosure on procurement of supplies.
- 4) Lack of human resource policy and scheme of service.
- 5) Company performance.

Fort Beverage Industries is a company that is a subsidiary of MUWASCO, as you know MUWASCO is a service providing company. The activity of the company is to produce and sell bottled water. It envisages commercial operations for profits to be re-invested to the parent company MUWASCO to improve affordability of piped water across the distribution area. In this report of 2018 from the office of the Auditor General, here the Auditor has given an opinion which we call qualified. Mr. Speaker, in auditing there are only five reports which an Auditor can give, first one is unqualified, the second one is qualified, third one is disclaimer and fourth one is adverse. In this case, we are talking of qualified, meaning that although the company here had kept proper books of account there were issues that needed to be answered.

Regarding audit query number one which was incomplete share disclosure, as a Committee we observed the following; -

- 1) The failure to state the information of share capital in the company's financial statements of financial position and statements of change in equity was against the international financial reporting standards.
- 2) That the Board of Directors have a duty to ensure that the financial statements are prepared with accordance to the international financial reporting standards.
- 3) That the shares have not been fully paid up.

Regarding query number two, which was misstated accounting period, this company commenced business in May 2017, but the company presented the financial statements for the year ended 30th June 2018. The title to the financial statements did not provide a fair reflection of the period of the company's existence under the audit, because as you can see the operations had started in the month of May 2017 it means this report did not cover the three months of the year 2017. As a Committee we have observed the following on this query number two, the accounting period was misstated as per the annexes provided in the audit report which accounted for 12 months

instead of 14 months. The Managing Director did not provide the company's bank account statements to substantiate his claim that there were no operations after incorporation on December 28, 2016 to May 2017. The company is in breach of Public Audit Act 2015 for failing to provide documents to the auditors and to the Committee.

On this, the Committee has recommended that the company within 60 days provides the financial statements for the two months not considered in the Committee through the office of the Auditor General for scrutiny in order to clear the audit query. That going forward the Board of Directors ensure that they prepare financial statements which give a true and fair view of the company in accordance with international financial reporting standards.

On query number three, the company did not provide documents on the process of appointment of suppliers on the purchases worth Kshs2, 640,455.00.

As a committee we observed the following; that the supporting documents presented for review to the Committee were not in line with the money in question making them false and inaccurate. The invitation to tendering notice, appointment memo to tender opening and tender evaluation committee were dated 2018 whereas the local purchase order and the invoice were dated 2016.

Another observation was that the directors did not provide minutes of the tender opening and tender evaluation committees that approved the award. Another thing that the Committee observed was that the invoice provided was worth Kshs186, 320.00 yet the money in question was Kshs2, 640, 445.00.

Another observation was that there was no evidence to prove that some of the companies that had bidded and were not considered had been closed by National Environmental Management Authority. That the company did not prove how they spent Kshs2, 640, 445.00 on purchase of various materials.

On all these observations we recommended the following as a Committee; that Fort Beverage Industries Company should avail the below listed documents to the County Assembly and the Office of the Auditor General for further scrutiny on the procurement of goods worth Kshs2, 640, 445;-

- 1) The list of materials bought worth Kshs2, 640, 445.
- 2) The notice to invitation to open tendering, minutes of tender opening committee and minutes of evaluation committee of the materials under question.

3) The local purchasing orders and the invoices amounting to Kshs.2, 640, 445.00 for the year ended June 30, 2018.

Mr. Speaker query number four was on lack of human resource policy and scheme of service. During the audit period, the company did not provide a documented human resource policy and scheme of service to guide the personnel management in the company. Further, the job descriptions and salary scales for staff were not documented. Mr. Speaker on this the Committee had some recommendations;

- 1) That the company should provide to the County Assembly detailed report on job descriptions and salary scales for staff under the FBIL.
- 2) The Committee recommends that within 30 days upon adoption of this Report, the parent company that is MUWASCO and subsidiary be restructured to ensure that the employees working for both Murang'a Water and Sanitation Company and FBIL are aligned to one company for effective reporting structures and efficient operations.

Mr. Speaker, query number five was on company performance. Mr. Speaker allow me to disclose that this company in this particular year made a loss of Kshs4, 839, 977.00 and it is in this regard that my Committee made this recommendation. But before that, there are some observations on this:-

- 1) The company failed to meet its principal mission which is to make returns which will be reinvested in parent Company that is MUWASCO. This company was supposed to be used to assist the mother company which is MUWASCO on its profit so that MUWASCO can provide cheap water. But this is not the case because as you have seen Mr. Speaker the Company in the first its making losses.
- 2) The existence of the company being unstable and dependent on MUWASCO disadvantages the people of Murang'a since money meant for provision of water goes to the operations of Fort Beverage Industries Limited.
- 3) The company does not have an adopted marketing and financial policy that guides its sales operations.

So, the Committee recommended the following;-

- 1) That the company should adopt a marketing and financial policy.
- 2) The Board of Management should formulate a strategy to ensure high returns to avoid dependence on the mother company.

Mr. Speaker, allow me to read the general Committee observations and I think they are only four and I think then I will be finishing. According or going by the observations of the Committee:-

- 1) There was insufficient internal controls, risk management and governance.
- 2) Their book keeping was poor.
- 3) The company had a very weak human resource management.
- 4) Non-compliance and adherence to relevant laws.

The Committee has recommended the following;-

- 1) There should be separation of responsibilities and functions.
- 2) This company should adopt human resource management.
- 3) The County Executive Committee Member in charge of Water should ensure that within 60 days after adoption of the Report this Company has approved working policies on the company operations such as marketing, financial controls production and quality controls.
- 4) That the CECM Water should give a financial policy guideline on budgeting, procurement, personnel emoluments and other operational matters to all water and sanitation companies and their subsidiaries.

And the last one Mr. Speaker, that within 60 days upon adoption of this Report, the County Executive Committee Member for Finance and Economic Planning should further investigate into all the financial operations of Fort Beverage Industry since inception and report to this Assembly.

Mr. Speaker, it is now my humble request to Hon. Chefman to second my Motion. Thank you.

Hon. Chefman Njoroge: Thank you Mr. Speaker, I rise here to support the Motion and I will request the Members to adopt the Report as per the recommendation of this Committee. With the Report which is within the files of our Members you can see the Committee worked hard. The Committee scrutinized each and every detail as per the mandate of the Committee. You can note that, it is after the query from the Auditor General which brought also questioning and queries and checking about the performance of this Company called FBIL.

If you check at all the recommendations, the queries and the questions which are in the Members files, you will see this Company has been going to losses, it is in record, the company doesn't give details or even documents as requested, either by the Auditor General or even the

House Committee. It is either avoiding or running away from what we as a Committee we need to scrutinize.

So I request the Hon. House to adopt this Report to strengthen us to be able to continue questioning and asking the questions as per the recommendations which we have in our books or the files.

If you check about delinking this company and the mother company, it tells you that as much as we are thinking about the work of the subsidiary company to help the mother company that is the MUSWASCO, you will find that at the end of the day we are making losses rather than profit. So, if the recommendations are adopted by the House it will assist us to strengthen the issue of performance. If whatever documentation and recommendation which I have given, if they are followed then I think we will be having a good way or a good move to make sure that we will not only get losses within this company or even our mother company.

If you look, the issue of a company going for a loss of Kshs4, 839,977 that is not a small amount of money. Whereby there is no information, there is no supporting documentation for the same. Despite us asking, sending letters to ask for the same, there was nothing we were given up to date. But if our recommendation and the House adopt this Report then we are able to follow up and get the real information which we want so that it can also help the House and our entire Murang'a County or the area which the company's jurisdiction is for the service to be more improved.

Mr. Speaker Sir, this Committee is not biased, we went into each and every integrity of the details and as you have seen in the Report, it is not that we have not questioned for the documentation. It is not that we have not given time for the same but at the end of the day the Committee has been ignored and not given the documentation. Suppose we would have been given the documentation we would have gotten the real information which we wanted.

So with the recommendation, with the House adoption of the Report I think we will be breaking the ice of the whole thing. I rise to support and I request the Members to support this recommendation so that we can be able to not only do what is right for the Committee to do, but also to guide the House to make really good decisions in the future. So I rise to support and I request Members please kindly let us adopt the Report for the sake of saving Murang'a County.

Thank you.

(Question proposed)

The Temporary Speaker (Hon. Kamwaga Mwangi): The Floor is open for debate. Hon. Loise.

Hon. Loise Mbogo: Thank you Mr. Speaker, I stand to support the Motion. Thank you The Temporary Speaker (Hon. Kamwaga Mwangi): Hon. Jane.

Hon. Jane Mukami: Thank you Mr. Speaker, I rise to support the Motion. It is also my concern that this House has become so hot, especially today, and it is my humble request that the Air Conditioner (AC) should be put on because we are almost to suffocate. Thank you.

The Temporary Speaker (Hon. Kamwaga Mwangi): Thank you Hon. Member. The Serjeant should note that and make sure that our ACs are working. Otherwise, sorry Members, if the weather is getting too hot, I thought the debate is becoming hot since the weather is the one because I could see some of you trying to cool themselves. Anyway, that has been noted and will be acted on. Hon. Member Warisper.

Hon. Warisper Elizabeth: Thank you Mr. Speaker, I rise to support the Motion and congratulate the Public Investments and Accounts Committee (PIAC) for the good work that we are doing and to the entire County. If you go into details, if you go to visit several of these factories, if you go to these industries, we are able to raise some amount in our County which will enable the running of our County. I wish to let the Chairperson know there are quite a lot of industries and factories in Wempa/Kimorori and I wish his Committee can visit the area and see the work those people are doing and in terms of social corporates. I support. Thank you.

The Temporary Speaker (Hon. Kamwaga Mwangi): Hon. Pauline.

Hon. Pauline Njeri: Thank you, Mr. Speaker, I rise to support the Report on the audited financial statements for the Fort Beverage industry. I am one of the new Members of the PIC/PAC and as you know, us Hon. Members of the Assembly, our work being representation, oversight and legislation, as Members of the PIC/PAC we have done our best to come up with this Report.

I believe we have all listened to the issues that are facing these Fort Beverage Company and our role being to oversight and also to legislate, I would really support this based on the fact that you can see that even the Human Resource (HR), me being a HR professional, I am actually shocked to know that this company does not even have a HR policy; just like employing workers in your company without a job description. They do not know what they are supposed to do each

and every day. They do not know the salary scales. So, this company lacks the sales and marketing policy. You can imagine having a company that does not have a sales and marketing policy. That means there are people who are joking with the Murang'a County money and for that reason you find that the money that is meant to support the water company by the name Murang'a Water and Sanitation Company (MUWASCO), is actually being used to support this company that is failing the Fort Beverage Company due to poor infrastructure, due to poor policies and structures.

Mr. Speaker, I support the Report and ask and beseech Members to support this Report so that we can dig into details, so that we can go into the depth of this matter, so that we come up with a solution, whether to continue with this Fort Beverage Company or whether to even close it because that is our mandate as Hon. Members of this Assembly. Thank you.

The Temporary Speaker (Hon. Kamwaga Mwangi): I think I have noted that the temperature was very gender selective because our brother Gichobe could not realize that it is hot until other women Members said about the weather. So, that shows about the resilience of the boy child. Hon. Gichobe, go ahead.

Hon. Gichobe Clement: Thank you very much Mr. Speaker for the opportunity and just for the record, I come from the highest point of this County. I am used to very low temperatures and therefore, having high temperatures is actually a holiday for me. That is why I like coming to this House.

I rise to support the adoption of this Report and I congratulate the PIC/PAC for the good job they have done. Let me first say a word of congratulations to the team. Indeed, this is a very good Report and this is what we recommend other Committees to be doing. I am very impressed, Mr. Chair, with your Members. I have gone through the Report slowly and I can see the amount of work and effort that has gone to this work.

Mr. Speaker, as I rise to support the adoption of this Report, I am disappointed by the system of audit that we have in this country. Of course there is nothing that the Committee or this House could do for now because you can imagine, I beg your pardon, we are in the year 2023 and the Report we are talking about right now is for the year ended 2018. This is a big disappointment and I do not know what we can do as policy makers in this country because you can imagine if this company was making losses in 2018, and it is four five years later, if on average this company was making four million losses like it did in this year, then it means that by now, we have made a loss of more than 20million.

This is a big disappointment and I think if it is possible, even though we can get, this is my request to the Chair that if it is possible to request for un audited, because the Report that we are discussing right now originated from the audited Report of the Auditor General. But again, at the end of every Financial Year (FY), the company does its financial report. Is it possible that we can have them request the un audited one because, first and foremost, we need to note that even before the Auditor General audits those books of accounts, and brings un audited reports that we are now going to debate in this House and I can guess that this will be done by the next House in the next regime because going by this, if the 2018 report has come in 2023, then the 2023 might as well come in 2028. That means that we will only be able to know how the company is performing today in the year 2028. This should not be happening in this County. We should try and improve.

So, I will request the Chair if it is possible, we can request for the un audited account just for perusal so that our eyes can see and our ears can hear what is happening in that company because I do not think it is worth it to have a company that is actually sacking financial blood, so to speak, from the parent company.

Number two, and I saw a letter that was done by the Governor to all these water companies, I think it is in the interest of this House that we insist that, indeed, the shareholding of this company is the majority shareholding of these companies. All these water companies are taken up by the County so that we can have a full mandate over these companies such that, in future, when this great County of Murang'a is the majority shareholder in MUWASCO, we can say that this company, Fort Aqua is no longer financially viable.

We have seen these gimmicks before with other institutions where we are, where an institution creates a subsidiary, not necessarily to make profits but sometimes it is used as a pipe to take away resources from the parent company and a company continues to make losses day in day out and as these losses are funded by the parent company, the parent company continues to fund the affair and the ongoing in the subsidiary and this subsidiary does not add value.

If we were to use this report the financial report of the year 2018 as an example then we would clearly say that Fort Aqua is only serving the purposes of derailing the activities of Murang'a Water and Sanitation Company (MUWASCO) because when a company makes a loss of Kshs4 million and it was in the first place meant to gain more resources so that the activities of MUWASCO can be simplified, it is not serving the purpose it was created for. I hope as we continue Mr. Chairman can come here in future and tell us that even though the Report may be

unaudited from Auditor General; we can have a clue on the bearing of this company because if this trend continues then it means that MUWASCO is only losing money and the people are losing money.

Again, let me repeat that we as Members of this House we need to unite and make sure that these water companies and I am happy because Gatanga water company from where I come from has heed to this call and now, we have a new board which has been appointed by the Governor. At least we have a full mandate of Gatanga water company but as it stands right now there is a problem because these water companies still do not have majority shareholdings being held by the county. This is a big problem that we are going to encounter even in our work of oversight. Therefore, I support and I congratulate the Committee for the good work that you have done. This what we would like to see going forward. Thank you.

The Temporary Speaker (Hon. Kamwaga Mwangi): Honourable Munga from Murarandia Ward.

Hon. Peter Munga: Thank you Mr. Speaker, I also rise to support the Report but before I do let me congratulate my big sister Honourable Member Pauline today you have known whom you representing and I am happy for that-----

The Temporary Speaker (Hon. Kamwaga Mwangi): Honourable you are not in order to directly address an Honourable Member who had done her contribution and declared that she is supporting the Motion. Otherwise you wanted to say something else beyond what the Motion is all about?

Hon. Peter Munga: Thank you Mr. Speaker, but it is worth noting that I never addressed her, I only congratulated her. I support the Report of the Fort Beverage I guess we are moving in the right direction if Members of this House can sense danger coming, it is worth working before it comes. Thank you.

The Temporary Speaker (Hon. Kamwaga Mwangi): I now call the mover to respond.

Hon. Ndunda Makau: Thank you Mr. Speaker for giving this opportunity to respond. Let me start by thanking all the Members who have contributed towards this Report. First let me thank Hon. Chefman for seconding the Motion, also Hon. Loise thank you also for supporting. Hon. Jane thank you for supporting and your concern that the House temperatures are a bit higher, there must be something wrong with the systems which needs to be looked. Hon. Elizabeth, thank you for supporting this Report.

Let me put this that our mandate as a Committee is to scrutinize the financial statement of County Executive, County agencies and County investment entities and subsidiaries. We may not go to the extent of examining these other companies that are not public entities but any entity that is public even the County Assembly where we are right now, one day we are going to Table their audited Reports because it is within our mandate and also County Executive and any other because mostly our mandate we deal with all water companies and any other public entity.

Hon. Pauline thanks for your concern, I know you are an expert in Human Resource (HR) and it is good you have noted that these companies have poor HR policies. Hon. Gichobe, thank you for supporting. Let me say this, that all these audited reports are supposed to come every year. They have been coming but somewhere in the way we do not know what happened that they do not reach the House. They have been coming, like now this is the first time that we are receiving this Fort Aqua audit reports. We also received the first from MUWASCO, I know they have been coming because we have been asking the office of the Auditor General. All the office has the records but once they are dispatched something has been happening on the way. But this time we are strict on that. It is not that we cannot get the current reports but we have to deal the background at least to understand what was happening before but going forward we are going to make sure that we are up to date. Like now what we are auditing in many companies we have gone through many reports and their current in fact they are for the year 2020.

That one I can assure you as a Committee we will be dealing with the current reports so that we can understand the financial position of these entities. Hon. Munga, thank you for supporting. Now let me again urge these Honourable Members to adopt this Motion so that we can be able to move forward and get more on this entity in the future. Thank you.

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Hon. Kamwaga Mwangi): Hon. Members, there being no other business, this House now stands adjourned until tomorrow Thursday, April 27, 2023 at 2:30 p.m.

The Assembly rose at 3:45 p.m.