



COUNTY GOVERNMENT OF MAKUENI

## MAKUENI COUNTY ASSEMBLY

### OFFICIAL REPORT

Second County Assembly – Second Session

Wednesday, 28<sup>th</sup> February, 2018

*(The House met at 2.30 p.m.)*

*[The Speaker (Hon. Douglas Mbilu) in the Chair]*

#### PRAYERS

#### PAPERS

**The Speaker** (Hon. Douglas Mbilu) Leader of the Majority.

The Majority Leader (Hon. Kyalo Mumo): Thank you Mr. Speaker sir. I beg to lay the following Paper on the Table of the Assembly today Wednesday 28<sup>th</sup> February, 2018 at 2.30 p.m.; The Government of Makueni County Vision 2025.

*(Paper laid)*

**The Speaker** (Hon. Douglas Mbilu) Leader of the Majority, County Annual Development Plan for the financial year 2017/ 2018.

**The Majority Leader** (Hon. Kyalo Mumo): Thank you Mr. Speaker sir. I beg to lay the following Paper on the Table of the Assembly today Wednesday 28<sup>th</sup> February, 2018 at 2.30 p.m.; The Makueni Annual Development Plan (ADP) for the year 2018/2019. I thank you.

*(Paper laid)*

**The Speaker** (Hon. Douglas Mbilu): Leader of the Majority proceed.

**The Majority Leader** (Hon. Kyalo Mumo): Thank you Mr. Speaker sir. Once again pursuant to the provisions of the Standing Orders 233 (3), I beg to lay the following Paper on the Table of the Assembly today Wednesday 28<sup>th</sup> of February, 2018 at 2.30 p.m.; The County Integrated Development Plans (CIDP).

*(Paper laid)*

**The Speaker** (Hon. Douglas Mbilu): The Paper laid by the Leader of Majority on the County Integrated Plan stands committed to the Sectoral Committee on Budget and Appropriation for information purposes. Hon. Members, Standing Order no. 233 (3) states that *upon being laid before the Assembly the County Integrated Plan shall be deemed to have been committed to each Sectoral Committee without Question put for each such committee to deliberate upon according to their respective mandates and, within twenty one days, submit their views to the Finance and Socioeconomic Planning Committee.*

Hon. Members under circumstances the Paper laid by the Leader of the Majority in the afternoon is a progress report on the developments under CIDP and therefore the Paper is committed to the respective Committees for information purposes awaiting substantive tabling of the CIDP 2017/ 2018. Further Hon. Members, County Annual Development Plan Paper laid by the Majority Leader this afternoon at 2.30 p.m. stands committed to all Sectoral Committees to consider and report back to this House within 21 days. Hon. Members on papers laid by the Leader of the Majority again this afternoon there is a County Government of Makueni Vision 2025 that stands committed to all Sectoral Committees for information purposes. Thank you.

## COMMUNICATION FROM THE CHAIR

### INSECURITY IN WOTE/NZIU WARD

**The Speaker** (Hon. Douglas Mbilu): Hon. Members, I have the following communication to make. Hon. Members as you may recall in the morning session I undertook to give direction or committal on the Petition regarding insecurity in Wote town as presented by the Member for Wote / Nziu Ward. The Makueni County Assembly Standing Order number 281 subsection 1 stipulates that the Assembly may, by a resolution establish an Ad Hoc Committee for purposes of enquiring in to a matter or matters specified in the resolution. Further, Standing Order number 218 subsection 2 states that a Notice of Motion for the establishment of an Ad Hoc Committee shall not be admissible unless presented together with a written recommendation of the Liaison Committee. In light of the above, I hereby direct that the Liaison Committee submits their written recommendation to the Speaker for certification and subsequent presentation to the Assembly for approval by Tuesday

6<sup>th</sup> March, 2018. Under the circumstances the Chair in his wisdom is advising that this matter of insecurity in Wote Ward borders between National Government functions and County Government functions and therefore it does not lie squarely on any of the Sectoral Committees and therefore an Ad Hoc Committee will be important to execute this matter.

#### CONDUCT OF MEMBERS IN ASSEMBLY PRECINCTS

**The Speaker** (Hon. Douglas Mbilu): Further Hon. Members, I have the following communication to make on conduct of Members in the County Assembly precincts. Conduct of Members is governed by County Assembly Powers and Privileges Act and the Standing Orders. Standing Order number 118 of the Makueni County Assembly Standing Orders stipulates that, the Speaker shall be responsible for maintaining order in the County Assembly whereas the Chairpersons of Committee shall be responsible in case of Committee of the Whole County Assembly. In the event of a disorder in a Committee, the disorder shall be only be censured upon receipt of a report to that effect. Additionally, Article 120 of the Constitution of Kenya 2010 as read together with Standing Order number 98 of Makueni County Assembly Standing Orders provides that, the official languages of Parliament shall be, Swahili, English and Kenyan Sign Language. Hence, all proceedings of the County Assembly of Makueni shall be conducted in Kiswahili, English or in Kenyan sign language.

Hon. Members, the County Assembly Powers and Privileges Act defines Assembly precincts as the area of land and every building or part of building under the County Assemblies control including the chambers in which the proceedings of the County Assembly are conducted, including the Galleries and the Lobbies of the Chambers, all the parts of the buildings in which the chambers are situated including the entrances, forecourts, yards, gardens, enclosures or open spaces appertained thereto, committee rooms and other meeting places provided or used for the County Assembly's purposes, the offices of a County Assembly including the places within such offices that are provided for the use of Members, members of staff, members of the public and the press, places provided for the use or accommodation of the Members, members of the public and representatives of the press used in connection with the proceedings of the County Assembly or its committees, or other buildings or parts of a building provided or used in connection with the proceedings of the County Assembly or its committees while so used by the County Assembly including such premises as may be leased by a County Assembly.

Hon. Members, equally important to note is that whenever a County Assembly or a committee convenes outside the premises ordinarily used for its Sittings, the Powers and Privileges Act shall apply as if the premises where the County Assembly or the Committee Sitting is, were within the precincts of the County Assembly. Hon.

Members, aware that there is a tendency by a section of you or us, to use abusive and/or inappropriate language while within the Assembly precincts, the Office of the Speaker wishes to draw your attention to Section 26 (1) of the County Assembly Powers and Privileges Act which stipulates that a person shall not-

- a. *assault, threaten, use abusive language, obstruct, molest or insult any Member proceeding to, being within or leaving the precincts of the County Assembly, or endeavor to compel any Member by force, insult or menace to declare himself or herself in favor of or against any proposition or matter pending or expected to be brought before the County Assembly or any committee.*
- b. *Assault, threaten, use abusive language, interfere with, molest, resist or obstruct any Member of staff while in the execution of his or her duty.*
- c. *Assault or threaten a Member or unlawfully deprive a Member of any benefit on account of the Member's conduct in a County Assembly.*
- d. *While a County Assembly or a committee is sitting, create or take part in any unlawful disturbance which interrupts or is likely to interrupt the proceedings of a County Assembly or any committee in the County.*

Hon. Members, a violation of the above provision of the law amounts to abuse of the powers and privileges bestowed upon Hon. Members of County Assembly and is punishable upon conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or both.

Hon. Members, Standing Order 127 also defines grossly disorderly conduct as when a Member-

- a. *Creates actual disorder.*
- b. *Knowingly raises a false point of order.*
- c. *Uses or threatens violence against a Member or other person.*
- d. *Persists in making serious allegations without, in the Speaker's opinion, adequate substantiation.*
- e. *Otherwise abuses his or her privileges.*
- f. *Deliberately gives false information to the County Assembly.*
- g. *Votes more than once in breach of these Standing Orders.*
- h. *Commits any serious breach of these Standing Orders.*
- i. *Acts in any other way to the serious detriment of the dignity or orderly procedure of the County Assembly.*

Hon. Members, Makueni County Assembly Powers and Privileges Committee will not hesitate to take necessary measures against Members found to have breached powers and privileges bestowed upon Hon. Members by law. The measures, pursuant to the provisions of Section 17 of the County Assembly Powers and Privileges Act as read together with Standing Orders 128, 129 & 130 of the Makueni County Assembly Standing orders include: -

- a. A formal warning.
- b. A reprimand.
- c. An order to apologize to the County Assembly or a person in a manner to be recommended by the Committee on Powers and Privileges.
- d. the withholding, for a specific period of time, of the Member's right to the use or enjoyment of any specified facility provided to Members by a County Assembly.
- e. The removal or suspension for a specified period of time of the Member from any County Assembly position occupied by the Member.
- f. Such fine in terms of the Member's monthly salary and allowances as the House may determine.
- g. The suspension of the Member who has been named for the first occasion shall be four sitting days, and on the second occasion during the same sitting shall be eight sitting days; and on the third occasion twenty eight sitting days or suspension from the service of the County Assembly whether or not the County Assembly or any of its committees is scheduled to meet during that period. The withdrawal of a Member whose conduct is grossly disorderly on the first occasion for the remainder of that day's sitting and on the second occasion a maximum of three sitting days.
- h. Vacation of seat pursuant to Articles 75(2) (b) and 194(1) (c) of the Constitution of Kenya.

I therefore call upon you Members to conduct yourselves with decorum while within the Assembly precincts so as to ensure order. To enable you familiarize yourselves with the expected standard of conduct for Members of County Assembly, I do direct the Powers and Privileges Committee to provide each Member with copies of the following documents;

1. Constitution of Kenya, 2010; an excerpt of Chapter 6.
2. Public Officers and Ethics Act.
3. The County Assembly Powers and Privileges Act.
4. The Members Handbook and Speakers' rules.

Thank you Hon. Members. Next Order.

## STATEMENTS

**The Speaker** (Hon. Douglas Mbilu): Member for Kalawa Ward.

STATEMENT REQUEST- INCOMPLETE WORKS AT MWELELI EARTH DAM

**The Member for Kalawa Ward** (Hon. Kyalo Mutunga): Thank you Mr. Speaker. Pursuant to the provisions of Standing Order 50 of the Makueni County Assembly Standing Orders, I rise to request for a Statement from the Chairperson,

Committee on Water, Irrigation and Environment regarding the incomplete works at Mweleli Earth Dam in Kalawa Ward. The desilting and distribution of Mweleli Earth Dam was allocated Kshs.5.5 Million in the FY 2015/16. The desilting works was done to completion in 2016. However, the distribution of the water was not done as had been planned and budgeted. Moreover, the earth dam is not fenced and poses risks of accidents to both the residents and their livestock using the earth dam.

The earth dam has no check dam hence silt is rapidly deposited back to the dam, which will call for frequent desilting of the dam and this would prove to be a so costly maintenance procedure. During the excavation of the earth dam, livestock watering point was not provided for and this has hampered the proper watering of livestock at the dam. Mr. Speaker sir, the Chairperson should therefore clarify on the following: -

- a. The amount of the money of the allocated sum which has been spent so far
- b. Whether the Department has plans to fence the dam, construct a check as well as provide a watering point for the livestock;
- c. Why the distribution of the water has not been done despite funds for the same having been allocated; and
- d. When the Department plans to complete the implementation of the works remaining at the dam.

Thank you Mr. Speaker.

**The Speaker** (Hon. Douglas Mbilu): The Chairperson.

**The Deputy Majority Whip** (Joseph Muema): Thank you Mr. Speaker and the Member for Kalawa Ward. We request for 15 days to be able to give a response to this House.

**The Speaker** (Hon. Douglas Mbilu): How many days?

**The Deputy Majority Whip** (Joseph Muema): 15 days.

**The Speaker** (Hon. Douglas Mbilu): 50?

**The Deputy Majority Whip** (Joseph Muema): 15 days.

**The Speaker** (Hon. Douglas Mbilu): Why not 14 days?

*(Laughter)*

**The Deputy Majority Whip** (Joseph Muema): Travelling day Mr. Speaker.

**The Speaker** (Hon. Douglas Mbilu): Very well, it is so directed that the respective Committee for Water, Irrigation and Environment provide a report to this House within 14 days. Member for Kasikeu Ward.

*(Hon. Julius Tangai was not in the House)*

**The Speaker** (Hon. Douglas Mbilu): That Statement is deferred and the Chair will make a communication in due course. Member for Emali/Mulala Ward.

STATEMENT REQUEST- DRAINAGE SYSTEMS IN EMALI TOWN

**The Member for Emali/Mulala Ward** (Hon. Nicodemus Muthoka): Thank you Mr. Speaker. As you aware I was not present in the morning. I was attending to Ward matters and I was not able to present my Statement in the morning session ---

*[The Speaker (Hon. Douglas Mbilu) left the Chair and the Deputy Speaker (Hon. Harrison Mutie) took the Chair]*

**The Deputy Speaker** (Hon. Harrison Mutie): Proceed.

**The Member for Emali/Mulala Ward** (Hon. Nicodemus Muthoka): Pursuant to the provisions of Standing Order 50 of the Makueni County Assembly Standing Orders, I rise to request for a Statement from the Chairperson Committee on Transport and Infrastructure regarding the lack of drainage systems in Emali town. This is a reintroduction of a Statement request that was made in this Assembly during the previous session pursuant to provision of Standing Order 54 (2). Part two of the Fourth Schedule to the Constitution of Kenya, 2010 assigns County Governments the function of storm water management systems in built-up areas. The County Government has over the financial years 2015/16 and 2016/17 allocated Kshs.10 million and Kshs.2,110, 994 respectively, for the construction of a drainage system in Emali town, which was aimed at creating a conducive living and working environment. Further, structures which were perceived to have been erected on the drainage channels in the town were demolished by the County Government to open up the drainage areas.

There are around ten feeder roads in the Ward which are densely populated, and which, due to the high population, suffer serious drainage problems more so during rainy seasons. The drainage systems have been done to half way completion, and with the onset of the short rains, and the with the water having not been directed anywhere, it is feared that the town will be struck by flooding problems, including the market places, leading to low business turn out hence reduction in the revenue generated by the markets. Further, the flooding may cause outbreak of water borne diseases and at the same time contaminate water sources in the town.

Mr. Speaker the Chairperson was to clarify on the following: -

- a) The total amount of money which has been allocated for the Emali drainage system over the financial years;

- b) The reasons for the slow implementation of this project, despite its urgent need in the town, and for the fact that the project was allocated funds in the FY 2015/16 and 2016/17.
- c) When the project is planned to be completed;
- d) The plans the Department has to control the storm water in the town during the coming rainy season; and
- e) Measures put in place to ensure that the water sources in the town and its environs are not contaminated during the rainy season.

The Chairperson should therefore provide the response as was undertaken. This Statement is a reintroduction which I had requested last year and as I have clarified in the Statement, the rains are just about come. According to the report we are getting for the Metrological Department it is that we may have very heavy rains coming in the second week of March. If this work could be done within that period then part of the problem will be half way solved. I direct this question to the concerned Department. Thank you Mr. Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Member for Emali/Mulala Ward, you are not in a position to direct a Statement.

**The Member for Emali/Mulala Ward** (Hon. Nicodemus Muthoka): Mr. Deputy Speaker I stand guided. It is a kind request.

**The Deputy Speaker** (Hon. Harrison Mutie): Very well. Chairperson Transport and Infrastructure Committee.

**The Member for Mbooni Ward** (Hon. Alexander Masila): Thank you Mr. Speaker. I remember very well about this Statement. In the last Session it was directed to the Committee on Water, Irrigation and Environment. I think the Member might be confused but if it belongs to our Committee then we request for 14 working days to deal with it and give a comprehensive report.

*(Hon. Nicholas Maitha stood in his place)*

**The Deputy Speaker** (Hon. Harrison Mutie): Yes Hon. Maitha.

**The Member for Thange Ward** (Hon. Nicholas Maitha): Thank you Mr. Deputy Speaker. Is the Hon. Member in order to refer to the MCA for Emali/Mulala as confused?

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mbooni.

**The Member for Mbooni Ward** (Hon. Alexander Masila): I withdraw, thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Very well. 14 days Member for Mulala?



**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): Mr. Deputy Speaker I need an apology. Withdraw is just a sentence. I expect something much heavier than that because I am not confused. Department of Water does not do drainage. Therefore, this is infrastructure that is poorly done and we expect much more than that. 14 days comes to almost the two weeks like what I have mentioned from the Meteorological Department. I expect something to begin. At least something should begin immediately and then come the 14 days, they should be giving out a report on what has been done on the ground. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mbooni and you may consider to give an official apology to Member for Mulala.

**The Member for Mbooni Ward** (Hon. Alexander Masila): Thank you Mr. Deputy Speaker. I apologize for that. I believe the Hon. Member has mandate and responsibility to follow up on the projects on the ground and the reason as to why we are giving 14 days is because we have to do a consultative meeting, we request for a report and some feedback. Therefore, before the 14 days elapse, I expect the Member to have visited the ECM and the Department and push ---

**The Deputy Speaker** (Hon. Harrison Mutie): Order Member for Mbooni. The Member for Mulala has requested for a Statement and his job ends there. That I why we are committing this job to your Committee. Therefore, it is your job to contact the relevant ECM and all the relevant agencies to provide you with that information and prepare a report for this House on the same. Therefore, I grant 14 days. Member for Mulala when I say 14 days it means the Committee can even bring a report within 7 days. Therefore, we kindly request with 14 days you bring a very conclusive Report as far as that Statement is concerned. Next. Point of clarification. Hon. Mutindi?

**Hon. Elizabeth Mutindi:** Thank you Mr. Deputy Speaker. Can the Member for Kitundu/ Kithungo who is also the Leader of the Majority in the House clarify to the Members if he has forfeited his position for someone else so that we can sit on that seat? Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Majority Leader.

**The Majority Leader** (Hon. Kyalo Mumo): Mr. Deputy Speaker it is very unfortunate that the Hon. Member can refer to the Leader of Majority as MCA Kitundu unless she is ---

**Hon. Elizabeth Mutindi:** Sorry about that Mr. Deputy Speaker. I meant Leader of Minority.

**The Deputy Speaker** (Hon. Harrison Mutie): Leader for Minority.

**The Minority Leader** (Hon. Kisungi wa Katete): Thank you Mr. Deputy Speaker. I was consulting the Chairperson Transport Committee concerning projects in my Ward.

**The Deputy Speaker** (Hon. Harrison Mutie): Very well. Hon. Mutindi, it is duly allowed that any Member of this House can consult whether from the leadership point or from the other Hon. Members. Therefore, I think the Hon. Minority Leader is in order. Next Statement. The Chairperson Committee on Water irrigation and Environment to give a response to the Statement regarding dumping of waste on private land near the banks of the Kamunyolo as was requested by the Member for Wote Ward.

STATEMENT RESPONSE- DUMPING OF WASTE ON PRIVATE LAND

**The Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. I rise to give a progress report on Statement regarding of dumping of waste on land near the banks near Kamunyolo stream in Wote/Nziu Ward. The Member requested this Statement during the 16<sup>th</sup> sitting of the County Assembly on Wednesday 11<sup>th</sup> October, 2017. The MCA sought for clarification from the Committee on Water, Irrigation and Environment regarding the following matters;

- i. Whether the Department is aware of the fact that waste from Wote town is being dumped on the said private land which nears the banks of the Kamunyolo stream or whether the National Environmental Management Authority (NEMA) has been notified of the same;
- ii. If so, what actions have been taken against the perpetrators of this vice;
- iii. Whether the owner of the said private land is aware of the dumping and whether s/he gave consent for the same.
- iv. Whether the County Public Health Officers have visited the said dumping sites to assess the health risks it poses to the people living near and around that area;
- v. How safe is the water being pumped for consumption by the various households in Wote town?; and
- vi. The plans the County Government has put in place with regards to developing a dumping site so as to bring to an end the case of uncontrolled dumping in the town.

According to the area MCA, there were allegations that waste from Wote was being dumped on certain private land which is near Kamunyolo stream. When it rains, the waste is washed down into the stream which feeds Kamunyolo Dam which is the main source of water for Wote town, hence contaminating the dam's water. During the considerations of the Statement by the Committee the committee deliberated on the matter and di a letter to the ECM for Water, Irrigation and Environment Services on

12<sup>th</sup> October, 2017 to provide a response on the same. The ECM's response was due on 18<sup>th</sup> October, 2017 which was not provided. The Committee did a reminder letter on 8<sup>th</sup> November, 2017 to the ECM who responded through a letter dated 15<sup>th</sup> October, 2017 and indicated as follows.

That on the state of Wote town sewerage, Wote town lacks a sewerage system for effluent discharge. Most residents rely on septic tanks accompanied by soak pits constructed by residential owners to dispose liquid waste. On filling up of the soak pits it becomes a challenge taking into considerations that the town lacks a sewerage system. On the case of sewerage disposal, the case on disposal of effluent in Kwa Ngulue in relation to Kamunyolo water resource was reported to the Department of Water, Irrigation and Environment by the public through a letter in 9<sup>th</sup> August, 2016. On the action taken and legal capacity of Water, Irrigation and Environment Department, the Department through the Directorate of Environment made a letter to the National Environment Management Authority, NEMA Makueni Office and to the land owners where the effluent was disposed. Upon investigation it was noted that the owner provided the land to the people operating exhausters for discharge of effluent at a fee. Both the land owner and the exhauster service providers lacked a valid effluent discharge license from NEMA. The licensing could not be provided by NEMA as Wote town lacked sewerage systems. Waste Water Management Regulations (2006) provides that NEMA regulates discharge of all effluent into the environment and that anyone disposing effluent should acquire a valid license from them.

On matters that require attention, the issues that were to be addressed in order to solve the environmental issues and pollution include;

- i. Developing a sewer line for disposal of liquid waste (Wote Water and Sewerage Company).
- ii. Introduction of regulated exhauster services and licensing of the same by NEMA.
- iii. Enforcing on regulations such as construction of septic tanks accompanied by soak pits in all buildings in the town and ensures there is regular maintenance by Public Health and Physical Planning Directorate.
- iv. Developing of a decentralized treatment system that is to be done by Wote Water Company and Sewerages Company.

On the way forward, the Wote Water and Sewerage Company (WOWASCO) has a Strategic Plan (2017-2021) to improve sewerage coverage from 0% as at now to 26% by developing a decentralized treatment facility, introducing exhauster services and developing a new sewer system for Wote town. The Company has estimated the budget of Kshs.1.4 billion to implement the above-mentioned plan. The Committee

carried out a site visit on 4<sup>th</sup> December, 2017 to areas where unauthorized dumping of effluent was taking place in Wote town. The Committee was accompanied by the Member for Wote Nziu Ward, ECM Water, Irrigation and Environment, Director Water and Irrigation, Assistant Director Environment, Director Medical Services, CEO NEMA and members of the public among others.

In a letter done by the ECM Health Services to the Committee dated 5<sup>th</sup> December, 2017, the ECM had indicated that his attention had been drawn to the ongoing investigation regarding the disposal of exhaust/sewer in Wote Town. The Committee received an Environmental Restoration Order dated 5<sup>th</sup> December, 2017 from the NEMA County Officers through the County Director of Environment. The Order had indicated that following its inspection to the farm where effluent is being disposed that is, farms owned by Mr. Peter Mutisya and Mr. Patrick Mwanza, there was no Environmental Impact Assessment (EIA) submitted to their office contrary to Environmental Management and Co-ordination Act (EMCA) Section 68 and EIA/EA Regulation 2003. The Committee presented a progress Report to the County Assembly on 7<sup>th</sup> December, requesting for additional time. During the said period, this Committee made various findings and observations;

- i) Wote Town lacks a sewerage system for effluent discharge. Most residents rely on septic tanks complimented with soak pits constructed by residential owners to dispose liquid waste.
- ii) There was dumping of effluent at the privately farms owned by Mr. Peter Mutisya and Mr. Patrick Mwanza.
- iii) There was no Environmental Impact Assessment Report (EIA) submitted to the offices of NEMA by the County Government or the captioned individuals contrary to provisions of EMC Act Section 68 and EIA/EA Regulation 2003 carried to the said farms before the effluent disposal began.
- iv) There was a solid waste dumpsite purchased by the County Government at an area near Kwa Kathoka whose acreage was 10 acres though there was no EIA Report submitted to NEMA Offices for action regarding the proposed dumpsite.
- v) The purchased land for solid waste disposal at Kwa Kathoka had not been fenced and did not have gates. It was therefore accessible to animals/ livestock and unauthorized residents. This exposure may have caused the disposed solid wastes to be carried away by wind and water to the surrounding area posing a possible health hazard.
- vi) The County Government had not purchased parcel of land for effluent disposal. The ECM Health Services indicated that plans were underway for acquiring the said parcel of land.

- vii) The Director Medical Services indicated that the hospital lagoons as at their current capacity cannot incorporate any more effluent connections other than the existing ones.
- viii) Effluent at Kwa Ngulue flows by gravity to the nearby Kamunyolo stream and nearby privately-owned farms causing destruction to their crops and transmission of waterborne diseases.
- ix) The odour of the effluent poses health risks and disturbance to nearby residents especially pupils at Kivandini Primary School.
- x) Sewer for effluent flow to the Hospital Lagoons contained other connections from privately owned businesses.
- xi) There was a diverted runoff from the nearby road bring rain water to the Hospital lagoons hence interfering with the bacterial activity at the ponds.
- xii) The Hospital lagoons were not fenced making them accessible to livestock and unauthorized persons.
- xiii) From the observation, the lagoons were almost filled with sludge.
- xiv) The ECM Health Services informed that some of the exhauster service providers who were purported to dispose their waste at designated dump sites at Machakos were doing so at bushes around Makongo area in Kee Ward.

The Committee made the following recommendations.

- i. The dumping of effluent at Kwa Ngulue to stop with immediate effect, meanwhile exhauster service providers were informed to dump the effluent at the authorized and designated dumpsites preferably at Machakos Town which is the nearest designated effluent disposal site.
- ii. The NEMA through a restoration order dated 4<sup>th</sup> December, 2017 to the affected persons directed that a suitable site be purchased and an Environmental Impact Assessment (EIA) Report done as per the Waste Management Regulations, 2008 and Environmental Management and Co-ordination Act, (EMCA) 1999, Second Schedule (58)(2). The Order was given 21 days to be fully adhered to failure to which, the Authority was to take necessary legal action.
- iii. The County Government through the Departments of Health Services and Water, Irrigation and Environment, was advised by the Committee to consider subdividing the 10-acre parcel of land purchased for solid waste disposal to include and develop sewerage ponds where the exhauster service providers will be charged upon disposal.
- iv. The ECM Health Services was informed to include emergency funds for emerging issue which may arise, as a permanent solution on the effluent disposal was being considered.

- v. In future, consider relocating the hospital lagoons from their current location to an area outside the Wote town as the town was growing at a fast rate with an increasing populace.
- vi. Person(s) engaging in the business of effluent disposal by any means including the exhauster service providers must have a certificate from NEMA and other relevant authorities and ensure that the effluent is disposed at designated sites.
- vii. Persons contravening the set effluent disposal regulations should be held responsible and legal action taken against them.

During the 3<sup>rd</sup> Sitting of the County Assembly dated Wednesday, 14<sup>th</sup> February, 2018 the Statement was again reintroduced after the Committee had made the above mentioned recommendations and findings. After it was reintroduced the Committee did a letter dated 21<sup>st</sup> February, 2018 to the ECM so that he can update this House and this Committee on the actions that the Department has undertaken since the above findings were given to the Department for the period between 4<sup>th</sup> December, 2017 which is the date that the Committee visited the area and made that historic meeting with the ECM Health and ECM for Water and 21<sup>st</sup> February, 2018. Once the letter was done it was supposed to expire on 26<sup>th</sup> February, 2018. However, once again we have noted it was delivered on 20<sup>th</sup> to the ECM. Therefore, this Committee is waiting for the response from the ECM on the implementation of their recommendations as at today between the said periods. Thank you Mr. Deputy Speaker.

**Deputy Speaker** (Hon. Harrison Mutie): Very well Member for Wote town.

**The Member for Wote Ward** (Hon. Felix Mateso): Thank you Mr. Deputy Speaker. I may not agree with some of the things which have been given here in this report since they have said that this dumping of waste was supposed to have been stopped with immediate effect. I want to report to this House that, as we talk, nothing has been stopped and exhausters have continued dumping the waste and NEMA has not done anything about the dumping. As we talk now the dumping is still on. I do not see this problem being sorted since I can see Wote Water and Sewerage Company has committed to building a sewer line at a cost of Kshs.1.4 billion and I am wondering how a company that is surviving by the mercies of the Lord can actually do this. I do not see this company do anything about this. It has taken too long since rains are coming. We were talking of the December rains and now we are talking of the April rains which are about to come and we are still getting the waste being dumped there and water is still flowing to Kamunyolo dam where people continue consuming that water. I want the Committee for Water and the concerned ECM to tell me if our people will continue taking dirty water. I understand there is an emergency kitty that can built a disposal line and there is land. I want to also know whose problem it is

when the environmental impact assessment has not been done and will we bear that burden as the residents of Wote? Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): The Chairperson.

**The Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. Number one, I begin by saying, as a Committee we sympathize with the Member for Wote Ward. From the report that we have just presented before the House you note that the Committee before the report was presented did recommendations to the Department concerned together with the Department of Health Services. You can note from the report that there was an agreement that NEMA gave them a number of days to sort that out. The reason we have given this progress report is because you can note that the statement was reintroduced as it was previously. Therefore, the best we could do as a Committee was to write to the ECM and get to know how they have implemented whatever we recommended as a Committee. From your Chair I do not know how you will direct, if a Committee gives recommendations and we are learning from the Member that nothing has happened.

The recommendation was that disposing of effluent at Kwa-Ngulue should have been done with immediate effect. This report was shared with the ECM by then in a meeting and if it was not effected, you need to give directions from where you sit because we are disappointed that even after having so many meetings with other stakeholders and with our recommendations and yet according to what the Member has just said they were not implemented. As Members can note from the report this is the same river that is serving Kamunyolo earth dam that is supplying water here. When we visited the site, it is true and I can confirm here about the odour. I cannot imagine. There is a nearby school and this is causing a serious health risk. I honestly sympathize with the Member for Wote Ward if it has not been done. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mtito Andei.

**The Member for Mtito Andei Ward** (Hon. Francis Mwanja): Thank you Mr. Deputy Speaker sir. I wish to request the Chairperson, if he feels more vulnerable to have no authority to make a decision how can he sympathize with the people of Wote when he is in authority? Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): The Chairperson Water Committee.

**The Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. I do not do it as an individual but I do it as the County Assembly of Makueni because we gave recommendations as County Assembly of Makueni. The reason why as an individual I sympathize is because I thought once recommendations are given by a Committee they should have been followed to the letter.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Thange.

**The Member for Thange Ward** (Hon. Nicholas Maitha): Thank you Mr. Deputy Speaker. I am a Member of that committee and I wish to say that it is like the Committees in this House are not taken seriously and if they do, it is like the Executive are not taking the work that these Committees do here seriously. The issue of Kamunyolo has taken long; this is almost the third month. I was there when we went on site and it was a bit terrible. We had the ECM and several other people from the County Government of Makueni. We had the officer in charge of NEMA. I remember the last time we went to the lagoons near Unoa primary school and we had very wonderful discussions and recommendations. The officer in charge of NEMA said he is going to write a letter so that these guys take their effluent to Machakos because they cannot dispose within Makueni. There are only two places; either Machakos or Voi and we agreed that in the next few months something is going to be done.

The issue of Kwa-kathoka came in and it was said that there is about 10 acres of land where something can be made for temporary measures. The ECM even talked about the Thwake dam and that maybe after two to three years they are going to build a very big sewerage system and that is going to accommodate Wote town in a very good way but before then something had to be done. I remember that time some issues were raised about Kwa Kathoka and that it is like the community is not willing to have that kind of a facility there. However, what was supposed to be done is NEMA guys going to the ground and doing an environment impact assessment which as from the report is not done.

I know Wote is a big town and I am very sorry for my dear friend Hon. Mateso because in every corner we have a problem. What I had from the *wazees* that we were with that day it is likely our brother may not come back again in 2022 if we do not something as House. Those old *wazees* were very bitter about this issue and were blaming the Hon. Member for Wote and it is only this House that can assist our brother and not assisting our brother but assisting the people of Makueni because Wote town does not comprise the people of Wote alone. I come from Thange and I still stay in this town. There was a problem in the discussion and I remember the ECM saying this; that it is the work of the County Government to provide these exhausters with where they are supposed deposit the waste. We are failing as Government. In other words, it was like he was saying however much we want to take it to Machakos or Voi, which is very expensive, we are failing as a Government.

It is my humble request that you give guidance on this issue so that the ECM takes it very seriously and see what we can do so that temporarily we can look at the Kwa Kathoka piece of land and see if we can dig a very big hole then we can tell these guys to go there and deposit the effluent there instead of our people suffering from here.



It is only two kilometers on your way to the courts and a few meters from the main road and these guys are depositing that waste there. If it was in Kibwezi East, I am sure we would have demonstrated a thousand times and these guys would have taken the waste to Voi or Machakos. Before we take that action and assist our brother to do that, let the Government of Makueni and the relevant Department be serious on this issue. We cannot every time be talking about issues here and at the end of the day they are not being executed. It is like we have Committees that are toothless, that cannot bite. Let us take this matter very seriously. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kako/Waia.

**The Member for Kako/Waia** (Hon. Dennis Musyoka): Thank you Mr. Deputy Speaker. I think today I am privileged to stand before you facing you directly. Hon. Members, a time has come when it comes to Committees, as serious as we are, we need to invite that ECM Water to come here and face the Committee of the Whole House to answer some of the questions because we are getting nice stories but the implementation part of is not actioned. Therefore Members, and I request the Deputy Speaker to guide on this, so that we get that ECM come to this House and explain what is happening because if you go even to the Wards there is no implementation. When it comes to Wote town which I can say is the capital city, it is problem after problem. A mountain of problems in Wote. There is insecurity, there is also the health hazard where the effluent is just dumped near schools and river banks and there are no actions that are being taken. We need to be serious on this and we need the ECM to come here to explain to the whole House because we cannot be taken as a toothless House, a Committee which cannot do anything and a House which cannot do anything. We now need to summon the ECM to come here and explain to us and after that if he cannot implement, as I said there are two eyes; there is impeachment and implementation. Therefore he will have to take both or one of them. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Member from Mavindini.

**Hon. Jonathan Muoki**: Thank you Mr. Deputy Speaker. I would like to commend the Committee on Water and Irrigation because they are really doing their work. It seems there is some lack of coordination on the Executive side. Hon. Members have a duty to legislate and to oversight including other business but the role of implementing what is to be over sighted by the Hon. Members belongs to the Executive. According to this report, there are several Departments that are involved. There is the Department of Health, Lands and there is the Department of Water and Irrigation Services as we can note from the report. There is incoordination on the side of the Executive because from the report you can see the ECM Health is giving his own version of the whole story. The ECM Lands is talking of land bought at Kwa

Kathoka which we understand there were some issues because the citizens around the plot said they do not want anything to be dumped there. The ECM Finance is saying that the effluent from Wote town is supposed to be dumped somewhere in Machakos and the offices on NEMA have said they did not give anybody license to do this.

Therefore, as one person said long time ago, poverty is unjust. It befalls a man even though he is nobly born. Listening to what transpired in this House in the morning, one would say like Jesus said in the Book of Luke, foxes have dens and birds of air have nests, but the son of men have nowhere to lay their heads. On either side you turn, it is either there is insecurity, there is contaminated water, there is aflatoxin in some areas and so many others. I am saying this out of the accumulated reports which have been brought to this House. Therefore, I would like to say the Committee on Implementation should take matters seriously because if the Committee on Implementation actually followed what the Report of the Committee on Water which was represented to us last year, something could have been done.

*(Hon. Jades Kalunda stood in his place)*

**Hon. Jonathan Muoki:** Therefore Mr. Deputy Speaker ---

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Member for Kikumbulyu South resume your seat. I will give you time to respond.

**Hon. Jonathan Muoki:** Mr. Deputy Speaker I belong to the Committee of Rules and Procedure, which Standing Order is the Member quoting before I proceed?

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kikumbulyu South.

**The Member for Kikumbulyu South Ward** (Hon. Jades Kalunda): Thank you Hon. Deputy Speaker. I am standing on a Point of Order that the Committee on Implementation will only take up any matter after a directive from the Speaker or after a resolution of this House---

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kikumbulyu South is this a Point of Order or Point of information?

**The Member for Kikumbulyu South Ward** (Hon. Jades Kalunda): I am trying to put some information then I put the order ---

**The Deputy Speaker** (Hon. Harrison Mutie): Then it is a Point of Information.

**The Member for Kikumbulyu South Ward** (Hon. Jades Kalunda): No. It is a Point of Order. I wish to get a clarification whether Hon. ---

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kikumbulyu South, I think for a Point of Order you need to ask is it in Order ---

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**The Member for Kikumbulyu South Ward** (Hon. Jades Kalunda): That is where I am getting to because it has taken me long before I even stood. Is the Hon. Member from Mavindini in order to insinuate that there was a directive by the Speaker or a resolution by this House for us to take up that duty of Kamunyolo dam? Is he in Order to lie to this House that we failed to take up something the Speaker by resolution of this House which was done some time back? Before he does that, I want to recognize him; he is my party Secretary General but that party leadership thing will be lost if he does not follow the rules of this House. Thank you Hon. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mavindini.

**Hon. Jonathan Muoki:** Mr. Deputy Speaker I pray that matters serious be taken seriously. The Member for Kikumbulyu South is kind of joking when I am talking about serious issues in this House and Mr. Deputy Speaker I would like you to protect me from the Member because if he is not handled properly he can continue doing that mess because I know him and he is my Member. Therefore, what I was saying is that we be coordinated from the Committees to the Implementation Committee and on the Executive side such that we do things the way they are supposed to be done. Hon. Members are saying that they are sympathizing with the Member for Wote town; Hon. Mateso not seeing that even in their places, if we lay everything here and we pursue this route, by the year 2022, maybe I will be the only Member left here because I represent the Republic of Kenya and I am doing my work properly.

**The Deputy Speaker** (Hon. Harrison Mutie): Thank you very much. Member for Mavindini I wish to inform you that what we are looking at is a progressive report and the Committee for Water, Irrigation, Environment and Climate Change is yet to give a fully comprehensive report that can be adopted by this House. Thereafter is where the Implementation Committee will take up to enforce the recommendations. Hon. Members, I would wish to direct as follows. A copy of this progressive report be made available to the ECM Health Services, a copy should be provided to NEMA and a copy of the same should be provided to the ECM for the Department of Water, Irrigation, Environment and Climate Change. A copy of the Hansard as it is, within fourteen days to accompany the said copies.

This House gives the Committee the requested five days within which we expect them to ascertain the status as it is from Kwa Nguluwe whether that thing is still ongoing and whether dumping is ongoing on private farms at Peter Mutisya's and Patrick Mwanza and whether NEMA has been provided with Environment Impact Assessment as at today. Further, the Committee should invite the ECM for Water, Irrigation and Environment Services and ECM Health Services and obtain a binding commitment into implementing the Report's recommendations. Within five days Committee for Water you need to coordinate yourselves and ensure that the Report

is comprehensive. Next Statement, the Chairperson Committee on Water Irrigation and Environment to give a response to the Statement regarding the excavation of Kwa Waa Earth Dam Kilungu Ward as was requested by the Member for Kilungu Ward.

STATEMENT RESPONSE - EXCAVATION OF KWA WAA EARTH DAM

**Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. From Kasimba to Kilome to Mukaa, I rise to give a progress report once again to the Statement regarding the excavation of Kwa Waa Earth Dam in Kilungu Ward as requested by the Member for Kilungu Ward who comes from Kwa Waa----

*(Hon. Jades Kalunda interjects on a Point of Order)*

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kikumbulyu South Ward.

**The Member for Kikumbulyu South Ward** (Hon. Jades Kalunda): Is the Hon. Member; the Chairperson for Water, Irrigation and Environment Services in order to mention some words without telling us what that means to Kasimba to Kilome to Mukaa. Those are corded words and we would wish to get to know what that means. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Chairperson Water, Irrigation and Environment Services Committee.

**The Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. I am sorry to say I was just reporting of Kwa Waa Earth Dam probably Mukaa to Kilome is the route that we use to Kwa Waa Earth Dam.

*(Laughter)*

**The Deputy Speaker** (Hon. Harrison Mutie): Proceed.

**The Deputy Majority Whip** (Hon. Joseph Muema): During the 20<sup>th</sup> Sitting of the County Assembly held on Wednesday 18<sup>th</sup> October, 2017 that is when this Statement was sought by the Member for Kilungu Ward. In the Financial Year 2015-2016, the Department of Water, Irrigation and Environment Services allocated Kshs.6 million for the excavation of Kwa Waa Earth Dam in Kilungu Ward. However, up to date, there is nothing that has been done and there are no indications of commencement of the excavation of the earth dam yet the short rains are expected any time from now.

The MCA sought for clarification from the Chairperson on the following issues:-

- a) What has caused the delay in the commencement of this project?

- b) Whether the Department still has plans to undertake this project, and if so, what are the plans for its implementation?

During the consideration of the Statement by the Committee, the Committee in its efforts to respond to the Statement did a letter to the ECM dated 19<sup>th</sup> October, 2017. The ECM responded through a letter dated 2<sup>nd</sup> November, 2017 and indicated as follows; Kwa Waa Earth Dam went through public participation and a site for the dam was proposed by the Community of the area. As we continue you remember this issue had been presented here before as a part of a progress report whereby the Committee indicated that, the Kwa Waa Earth Dam was moved from the initial site to Ithemboni. Therefore, as I continue, I know Hon. Members have that background information. A team of Officers from the Department of Water, Irrigation and Environment, Ward Administrator and the community visited the site to commence on the implementation exercise. During the site visit the technical team found the site not viable for construction of a dam as the area was characterized by big rocks.

The team from the County and community carried out a public participation and agreed to relocate funds to Ithemboni Earth Dam and minutes to change the site were done. The survey and design was done that is for the new Ithemboni Earth Dam and a bill of quantities and a Cabinet Paper were prepared. The Earth Dam went through the normal process of procurement and it was awarded to a contractor. The Earth Dam was constructed at a cost of Kshs.3,490,000.00 million and the other balance is still in the vote for Kwa Waa Earth Dam. This Committee provided a progress report response dates 16<sup>th</sup> November, 2017 and another progress report dated 7<sup>th</sup> December, 2017 for consideration but were termed as unsatisfactory. Therefore, this Committee decided to do an additional letter to the ECM seeking for additional information.

The Committee sought to know the following in the additional letter that was requested by the Member for Kilungu Ward:-

- i. The exact minutes for the change of location of the project during the said meeting with the public or the community at Kwa Waa Earth Dam.
- ii. The implementation status so far since the project began.
- iii. The plans underway for the utilization of the balance of funds from six million and Kshs.3.49 million.

The Chief Officer in the Department of Water and Irrigation, indicated to the Committee in a meeting held on 26<sup>th</sup> November, 2017 that an additional response will be provided in a week's time. The response was not provided as indicated to the Committee. Therefore, the Committee did another reminder letter dated 5<sup>th</sup> December, 2017. However, as we were going for the recess the Committee did a progress report on 7<sup>th</sup> December, 2017 that is two days after doing the letter. During

the 3<sup>rd</sup> Sitting of the County Assembly dated Wednesday, 14<sup>th</sup> February, 2018 the Statement was reintroduced to the Assembly pursuant to Standing Order 54(2) in the same format as it was.

The Committee once again resolved to do another letter to the ECM dated 16<sup>th</sup> February, 2018 requesting him to avail the above questioned information by 26<sup>th</sup> February, 2018. Once again we noted that the letter from the Clerk was delivered to the ECM on 20<sup>th</sup> February, 2018. The expected response within ten days could be on 2<sup>nd</sup> of March which is yet due. Therefore, the Committee still requests for five more days to wait the response from the ECM. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kilungu Ward.

**The Member for Kilungu Ward** (Hon. Patrick Mbevi): Thank you Mr. Deputy Speaker. First I want to inform the Committee that water is life. This report is the same report which we got in the last Session so I am wondering when they are saying it is a progressive report and there is nothing which they have done. If I remember very well in the last Session, the project was transferred from Kwa Waa Earth Dam to Ithemboni and I stated very well that Ithemboni Earth Dam was not a new Dam and the money which was spent is not worth it. I have not seen the value of the money in that project. Early this month I had a meeting with Ithemboni people and they are bitter about the project. I have seen they are requesting for five days yet we have been going round in the same report. I need your guidance, thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Chairperson for Water, Irrigation and Environment Services you are not supposed to respond. Any Member willing to respond to this report? Yes Hon. Mutindi.

**Hon. Elizabeth Kiio**: Thank you Mr. Deputy Speaker. I have realized that this public participation that is not guided is going to cost us lot because it is alleged that there was public participation then a team of officers went. Some money was allocated for the project before due diligence was done. When they have already allocated the funds is when they now go visit and realize that the place is rocky and not viable for a dam. Why was that not done before the money was allocated? Does it mean that if Members of public ask for an airplane in their area you will allocate funds for an airplane then realize that there is no place it can land after you already allocated so that you start transferring the funds. These are people who want to take us in rounds. As the Member is saying Ithemboni Earth dam is not a new dam so I do not think that a dam that is already done would need a whooping Kshs.3.4million. I do not know why exactly they allocated that and why the all amount was probably not done in a new project to benefit the people of Kwa Waa and they are told because of this reason let us give you this because they have so far not benefited from the

money they were supposed to benefit from. Somebody is joking with the public funds.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mavindini.

**Hon. Jonathan Mwaniki:** Thank you Mr. Deputy Speaker. Reading the voice of the Member for Kilungu, he is being crucified because of this project. The project was designed to be completed in the financial year 2015/2016. That is correct from the comprehensive report. The report indicates that some public participation was done and money was allocated to Kwa Waa earth dam. After sometime the project did not take off then there was some public participation on the same and members of the community decided to transfer this money to Ithemboni earth dam. That is what Hon. Elizabeth Mutindi is saying that 6 million was transferred to Ithemboni. According to the Member for Kilungu the money used to do Ithemboni is very little to him. I am very sure he is saying the truth because he is a man of Jesus Christ.

We can read a cartel here which is in operation. I request you direct that we get all the reports including the minutes. There are minutes which were done so that the money can be transferred to Ithemboni. I request you order that we get the report from 2016 to date and give us all the details on this because it is only the people of Makueni who can move Makueni forward. If we start behaving like this report is behaving— and I am not blaming the Chairperson Committee on Water but I am blaming everybody including myself. Let us get serious, get the information the way it is and if something is to be implemented, for example, if it costs two shillings let it be done at two shillings at the exact place because Makueni County is known for public participation. If somebody in the gallery hears that public participation was done on a project then the same project had another public participation to be moved we will be killing the Governor. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Very well, Chairperson Water Committee.

**The Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. Probably I will respond to a few issues. The Member for Kilungu has raised an issue on the value for money. It was not part of the original statement that was requested. The Member has expressed dissatisfaction on how the amount of money was used. Secondly, as it has been alluded by Hon. Elizabeth Mutindi Ithemboni may not be a new earth dam. From the communication we have as a Committee from the Department of Water and from the progress report that we presented, there is an indication that a survey was done on the design of Ithemboni earth dam. From where you sit I really request that you direct this Committee to visit the said earth dam because we have all been thinking it is a new earth dam for which public participation was done, money moved from Kwa Waa earth dam and taken to Ithemboni earth

dam. We are getting the indication and I do not know whether the Member for Kilungu can clear the air on whether Ithemboni earth dam is a new dam that was done using this money or has been an existing dam. We need to get that clarification and if it is an old dam, that this money was moved from a new dam to an old dam. Mr. Deputy Speaker kindly direct the Committee as soon as possible to visit Ithemboni earth dam and ascertain the facts from the ground because there might be contradicting information.

*(Hon. Jonathan Mwaniki stood in his place)*

**The Deputy Speaker** (Hon. Harrison Mutie): Yes, Member for Mavindini.

**Hon. Jonathan Mwaniki:** Mr. Deputy Speaker I am trying to get clarification from the Chairperson Water. On page 2 of this progress report, the same Committee writes that a team from the County and the community carried out public participation and agreed to relocate funds to Ithemboni Earth Dam and minutes to change site done. What does that say? And this is progress report from the same Chairperson who is now requesting the Member for Kilungu to clarify on this.

**The Deputy Speaker** (Hon. Harrison Mutie): Chairperson Water Committee.

**The Deputy Majority Whip** (Hon. Joseph Muema): Thank you Mr. Deputy Speaker. I do not know whether the Member from Mavindini has not really understood me. I indicated from our report that we are relying on information from communication from the Department through letters and that is why I quoted the part that says, survey and design was done and a Cabinet Paper prepared. As a Committee we all have been knowing and you can all see from the report that Ithemboni earth dam is a new dam. That is why I was seeking clarification if the information that we have from the Department is contradicting what is on the ground because I have heard the Member allude as though the dam has been there previously. That is why I was saying if this dam was existing and the money was moved from Kwa Waa earth dam to a new dam then that calls for the question for value for money. That is why I was saying if the Member confirms it was not a new earth dam done by the money allocated in 2015/2016 then the Committee needs to visit the soonest possible and verify its own facts from the ground.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kilungu.

**The Member for Kilungu** (Hon. Patrick Mbevi): Thank you Mr. Deputy Speaker. Ithemboni earth dam is not a new dam. It was started in 1965 and in the year in 2001 it was given money by CDF. in 2011 it was given Kshs. 800,000 by BAT. In 2013 it was given Kshs. 1 million by CDF and now in 2016/2017 I can see this is a scandal of a high caliber where they spent Kshs.3.4million on the same project. It is almost 6



months since I requested for the Statement and we are going round on the same project ---

**The Member for Thange Ward** (Hon. Nicholas Maitha): Point of Order Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Thange.

**The Member for Thange Ward** (Hon. Nicholas Maitha): Thank you Mr. Deputy Speaker. Is the Hon. Member for Kilungu in order to mislead this House that since he requested this Statement it is six months and you know we are only four months since he was sworn in.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Kilungu.

**The Member for Kilungu Ward** (Hon. Patrick Mbevi): I think the Hon. Member was not attentive, I said almost not six months and if we can do calculations he will get that. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Thank you. Member for Thange stand guided. I think I will direct as follows;

- i. Chairperson Water, Irrigation, Environment and Climate Change Committee, you have indicated that this is your third progressive report of this Statement. This has taken too much time for this House to consider this report, you have requested five days and I will grant you two more days.
- ii. Within seven days Chairperson Committee ensure that you invite the ECM to come in person to shed light on this item.
- iii. Make a visit to the site, talk to the residents and ascertain the true facts.
- iv. Get minutes of the change of the location and ascertain who attended those public participation forums to ascertain whether they were people from Ithemboni or from Kwa Waa dam.
- v. Further get a report from the technical team that did that considered the dam not viable so that the Committee can be well guided in its report.
- vi. Further ascertain how much has been left in that vote. You said your balance has been left, it is important that you quote in this report the exact amount that has remained in the report.

With tis seven days the Committee will have no more time to deal with this statement. Next Statement, Chairperson Committee on Transport and Infrastructure to give a Response to a Statement regarding rural electrification in Emali/Mulala Ward as was requested by the Member for Emali/ Mulala Ward.

#### STATEMENT RESPONSE – RURAL ELECTRIFICATION PROJECTS

**The Member for Mbooni Ward** (Hon. Alexander Masila): Thank you Mr. Speaker. I hereby rise to give a response to a Statement regarding rural electrification project implementation in Emali/ Mulala Ward requested by the Hon. Nicodemus Mutua MCA Emali / Mulala Ward on 15<sup>th</sup> February, 2018. Mr. Deputy Speaker sir, the County Government has over the previous year's allocated funds for rural electrification in the County. The Makueni County Supplementary Budget 2017 indicates that the Department of Transport and Infrastructure had a reallocation of Kshs.7,935,378.00 for rural electrification projects. In Emali/Mulala Ward rural electrification had been done in some regions while in other areas the electrification had not been done.

Mr. Deputy Speaker sir, the Honorable Member requested for clarification on the following;

1. The areas covered by the rural electrification programme in Emali/Mulala Ward.
2. The areas in Emali/Mulala Ward which are yet to be covered by the programme; and
3. The areas to be covered by the remaining Kshs.7,935,378.00.

Mr. Deputy Speaker sir, the Committee on Transport and Infrastructure sought for information from the Executive Committee Member, Roads, Transport and Infrastructure through correspondences dated 24<sup>th</sup> October, 2017 as attached and 17<sup>th</sup> January, 2018 also as attached. The ECM responded through correspondences dated 30<sup>th</sup> October, 2017 as attached and 22<sup>nd</sup> January, 2018 also attached respectively. Further the Committee invited the ECM to deliberate on the same matter. Mr. Deputy Speaker sir, the information received by the Committee in response to the statement was as follows;

1. The areas covered by the rural electrification programme in Emali/Mulala Ward;

It is the mandate of the County Government to connect all the critical facilities under its jurisdiction to power. In Emali/Mulala Ward the Department made application to KPLC for supply and installation of transformers for the following areas;

- a) Nduundune – Ref No. N214120170200029
- b) Tutini borehole – Ref No. E21432015020208
- c) Kitandi Borehole – Ref No. E21312014120056
- d) Kwakakulu – Ref. No. E21412017030006

The Department received two quotations from Kenya Power and Lighting Company and paid for the quotation addressed to Nduundune. The other was addressed to an individual, that is, Joseph Nzau Yambu and others, thus it was referred back to KPLC to rectify the mistake for the Department to process the payment as attached in the

appendix Therefore, to date Emali/Mulala Ward has only one region connected to power through rural electrification.

2. The areas in Emali/Mulala Ward which are yet to be covered by the programme;

The other areas the Department was planning to connect to power were, Tutini borehole, Kitandi borehole and Kwakakulu for which quotations from the Kenya Power and Lighting Company had not been received to date.

3. The areas to be covered by the remaining Kshs. 7,935,378.00.

The remaining funds in the programme shall be expended on connection of facilities to power supply within the County.

Mr. Deputy Speaker sir, in the consultative meeting with the ECM Roads, Transport and Infrastructure held on 22<sup>nd</sup> January, 2018, the Committee learnt that the remaining funds in the programme may have been committed to other projects in the County and Kwakakulu was one of the projects.

The Committee had further requested for documents in support of the expenditure on the projects in Emali/Mulala Ward which were funded through the programme rural electrification and the following documents were provided;

1. A quotation from KPLC indicating the cost of power connection to plot no. Nduundune – Kalamba Ref No. N214120170200029 at a cost of Kshs.2,229,857.00 as attached.
2. Purchase/Facilitation requisition form for purchase of transformer ascertaining the cost of the transformer as Kshs.16,032,433.00 as attached.
3. Payment voucher for the transformer worth Ksh.16,032,433.00 as attached.
4. A quotation from KPLC addressed to Joseph Nzau Yambu and others indicating the cost of power connection to plot number Kwakakulu Ref. No. E21412017030006 at a cost of Kshs.2,307,079.00 as attached.

Mr. Deputy Speaker sir, the Committee, found out that the Department spent Kshs.18,262,290.00 in total for purchase, installation of transformer and power connection in Emali/Mulala Ward in a single project. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mulala.

**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): Thank you Mr. Deputy Speaker. I was just listening to the Hon. Member when he was giving out the Statement but when I look through document here, the response from the ECM is totally different from what the Hon. Member has just read. I would just like to read to the House. The Street lighting in Emali Town ---

**The Deputy Speaker** (Hon. Harrison Mutie): Which letter are you reading Member for Mulala?

**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): It is about the street lights.

**The Deputy Speaker** (Hon. Harrison Mutie): Page?

**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): There is no page in it but ---

**The Deputy Speaker** (Hon. Harrison Mutie): The letter is dated?

**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): The fourth paper from the back dated 22<sup>nd</sup> of January.

**The Deputy Speaker** (Hon. Harrison Mutie): Yes proceed.

**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): Mr. Deputy Speaker the Hon. Member was giving out amounts that have been allocated to the streetlights in Emali but the response from the ECM is that, number 2 (a), provides the reason as to why installation streetlights has not been done. The answer was, there were no funds allocated for Emali but in his Statement he has read some amounts close to fourteen million. Then (b), whether the funds allocated for this project has been spent and if so, how much has been spent and on what activities. The response, no funds were allocated. It goes on and on until (e) therefore I would request the Hon. Member maybe to clarify this from what he has read.

**The Deputy Speaker** (Hon. Harrison Mutie): Chairperson for Roads and Infrastructure Committee.

**The Member for Mbooni Ward** (Hon. Alexander Masila): Thank you Mr. Deputy Speaker. I think we request one or two days to scrutinize this because it appears that there some points which are not connecting well. I request to be given two days to sit as Committee and really address the issue. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Mutindi.

**Hon. Elizabeth Kiio**: Mr. Deputy Speaker does the Chairperson Committee on Transport and Infrastructure want to insinuate that they did not scrutinize this correspondence from the ECM before they attached them here and brought them to the House so that they can ask for time to go and scrutinize them again?

**The Deputy Speaker** (Hon. Harrison Mutie): Chairperson for Transport and Infrastructure Committee.

**The Member for Mbooni Ward** (Hon. Alexander Masila): Thank you Mr. Deputy Speaker. We scrutinized but I believe we need some more clarification on

some pending issues because according to what the Member is saying, he might be right on some areas and I think we need some verification of the information.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Mbitini Ward.

**The Member for Mbitini Ward** (Hon. Josphat Nzuki): Thank you Mr. Deputy Speaker. I stand to put some information across to fellow Members and probably defend the Chairperson for Transport and Infrastructure Committee. As you can see from the documents before we crucify the Chairperson I can quote and read from what Hon. Nicodemus for Emali/ Mulala Ward had requested.

- i. The areas covered by the rural electrification programme.
- ii. The areas in Mulala/ Emali Ward which are yet to be covered by the programme.
- iii. The areas to be covered by the remaining seven million.

I think Hon. Nicodemus went straight to the ECMs response on 22<sup>nd</sup> January, 2018 without actually reading the first page that is, reference is made to the letter of 18<sup>th</sup> January, 2018. One, on rural electrification projects in Mulala/ Emali Ward which the Chairperson has already answered if I am not wrong. Two, provide a list of projects and their budgets that were connected to the electricity by the County Government through the REP programme which I think the Roads Committee Chairperson has also made clear. What I actually did not get was page two where Hon. Nicodemus talked about street lighting in Emali town. It is very clear that the Chairperson for Transport and Infrastructure did not capture that. On some points he clarified on your question and others he did not. I was just standing to defend my able Chairperson for Transport and Infrastructure Committee. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Members so that we do not waste time on the Report, the letter that the Hon. Member for Emali/ Mulala Ward read to us touches on several Statements that were requested were requested from this House. Therefore, the only answer that is related to what the Chairperson for Transport and Infrastructure is responding is answered in number one on the letter from the ECM. Therefore we can restrict ourselves to that bit alone. Member for Thange Ward.

**The Member for Thange Ward** (Hon. Nicholas Maitha): Thank you Mr. Deputy Speaker. When i got this document, it is such a long narrative and we expected that Chairperson for Transport and Infrastructure Committee is going to respond to all the matters that are captured here. In any case it may have not been very important for us to waste a lot of ink printing such a big document. Two, I wish to thank the County Government of Makueni, I did know whether we do electricity because it is a National function but I am happy and excited on behalf of the people of Thange Ward if this can be done.

When I looked at the document a lot of money has been spent on several points within Emali/ Mulala Ward up to the tune of more than ten million and it is my desire that maybe in future I also spend not less than fifteen million on electricity in my Ward because I am sure it is a problem in my Ward. I think it is also very important when Chairpersons are coming here to respond on some Statements that we also look at the document before we come here so we do not look like we do not understand what is really contained in the document. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Bernadette.

**Hon. Bernadette Mutisya:** Thank you Mr. Deputy Speaker. Just to go straight to the response. If you look at the letter dated 30<sup>th</sup> October, 2017 item number five rural electrification process in Emali/ Mulala Ward, it clearly states the response from the ECM. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Emali/ Mulala Ward should we give you time to go through that item as pointed out by Hon. Bernadette?

**The Member for Emali/ Mulala Ward** (Hon. Nicodemus Muthoka): Mr. Deputy Speaker my question was simple but from the response that has been given by the ECM the Committee I think sat down and their agenda was to see how they will be able to respond to my question about the electricity in Emali/ Mulala Ward. When we talk of Rural Electrification do not forget Emali itself is in the rural and we are not focusing on *mashambani* and forget about Emali town itself. My concern was about the response given by the ECM on the street lights in Emali; that is where my concern is. Yes, the ECM responded to all and if I may refer---

**The Deputy Speaker** (Hon. Harrison Mutie): Order Member for Emali/ Mulala Ward. On that letter that dated 30<sup>th</sup> October, 2017 the last page where there is signature, the first sentence says that the process is ongoing in all Wards, Emali/ Mulala included and that in my view includes Emali town and all the other areas that you would requested to be answered on. Then down there it talks about the other projects that you had requested and when you at the almost the last sentence the funds of the three quotations Tutini, Kitandini and Kwa Kakulu have been provided for in this year's budget as part of Kshs.7.935,378 and will be paid and expedited for connection as soon as possible. I think that answers your question.

**The Member for Emali/Mulala Ward** (Nicodemus Muthoka): Yes, this answers me because I have seen the statement from the ECM. It is worth noting that while the transformers are installed; my concern was kshs. 7.9 million but now if the works are in progress then we shall wait and see.

**The Deputy Speaker** (Hon. Harrison Mutie): Further, it talks about transformers that are already installed, grid connections to nearby homesteads will also be connected if possible. I think you are a very comfortable Member now.

**The Member for Emali/Mulala Ward** (Nicodemus Muthoka): Yes, I will work closely with the Chairperson Transport and Infrastructure Committee.

**The Deputy Speaker** (Hon. Harrison Mutie): Very well, Thank you very much. Chairperson Transport and Infrastructure, I further request you before you come to the House you familiarize yourself with the document at hand so that you do not request for more time when it is actually not necessary. Next Statement, Chairperson Transport and Infrastructure Committee to give a response to the Statement regarding encroachment of feeder roads in Nguumo Ward as was requested by the Member for Nguumo Ward.

STATEMENT RESPONSE- ENCROACHMENT OF FEEDER ROADS IN NGUUMO WARD

**The Member for Mbooni Ward** (Hon. Alexander Masila): Thank you Mr. Deputy Speaker. I hereby rise to give a response to the Statement regarding encroachment on feeder roads in Nguumo Ward as requested by the Member for Nguumo Ward, Hon. Alfred Nyamai on 18<sup>th</sup> October, 2017 which was re-introduced on 14<sup>th</sup> February, 2018. The Makueni County and the Country at large has been having an increased number of encroachment on road reserves. This has put the National and the County Governments at loggerheads with the members of public when it comes to removal/demolition of illegally established structures on the road reserves.

Part 2 of the Fourth Schedule of the Constitution of Kenya 2010 assigns County Governments the mandate over County roads where the County government are expected to conserve and maintain the County roads. The Member had sought for clarification on the following;

1. Whether the department was aware of the continuing encroachment on feeder roads/County roads in Nguumo Ward and the County at large?
2. If so, what actions has the Department taken to stop the encroachment and repossess the encroached sections of the feeder/County roads; and
3. Whether the Department carries out periodic road surveys to establish and avert any possible cases of encroachment to the feeder/County roads?

The Committee sought for information on the issues raised from the Department of Roads, Transport and Infrastructure through correspondences dated 18<sup>th</sup> January, 2018. The ECM responded, through letters dated 22<sup>nd</sup> January, 2018 as attached and 21<sup>st</sup> February, 2018 also as attached, as follows;

1. Whether the department was aware of the continuing encroachment on feeder roads/County roads in Nguumo Ward and the County at large?

The Department was aware of the encroachment on feeder roads in the County at large and it was compiling a list of all encroached roads for repossess process.

2. If so, what actions has the Department taken to stop the encroachment and repossess the encroached sections of the feeder/county roads;

The Department of Roads, Transport and Infrastructure noted that there was need to safeguard the road corridor as well as ensure that efforts to reclaim road assets such as corridors and reserves are conducted in such a manner that does not affect legally owned land. The Department of Roads, Transport and Infrastructure will engage the Department of Lands, Physical and Urban Planning to repossess the classified roads within Nguumo Ward and the County at large. In order to repossess the encroached roads, the Department will rely on road reserve widths gazetted by the National Government. To date, the National Roads Department has not yet gazetted the road dimensions and once the road classification which defines the road reserve is gazetted the County will narrow to roads in Makueni County.

3. Whether the Department carries out periodic road surveys to establish and avert any possible cases of encroachment to the feeder/County roads?

The Department carries periodic survey of all classified County roads in close liaison with the National agencies and the Lands Department to establish and avert all encroachment cases. In a consultative meeting with the Executive Committee Member held on 25<sup>th</sup> January, 2018, the Committee sought to know when the Department would commence the exercise of repossessing the encroached road reserve, which he responded by informing the Members that, where roads range between six metres to eighteen metres in width the road reserve should be six metres in accordance with the Roads Act, thus there is no specific dimensions provided for the County roads. However, the Bill/legislation that will provide for the classification of roads was under consideration by the National Parliament and that the Department will act with immediacy after the National Government gazettes the road classification which defines the road reserve widths. To add a point to this, immediately we get the classifications the ECM committed that he is going with the Department to correct any issue concerning the land and roads. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Nguumo.

**The Member for Nguumo Ward** (Hon. Alfred Nyamai): Thank you Mr. Deputy Speaker sir. First, I would like to thank the Committee on Transport and Infrastructure for the good work they have done but I say that to me, this report has not gone well with my expectation. One, I would like to say that there some functions which are devolved to the County Government one being the County roads. Therefore, I am in



total dismay when I hear the ECM saying that he is waiting for the clarification of roads from the National Government so that he may act upon it. We know very well that feeder roads belong to County Governments. What I am expecting from the ECM is to give direction on when he is going to do this exercise of doing the work of feeder roads. We need to see him doing the survey or do it through the Lands Department so that he can clarify these roads because they are of great importance to our Wards. You cannot pass if they are not properly done. Chair, I would like to say to me this is a shoddy job. I cannot accept it unless we get the facts as they are because we know what one is expected to do. Here there is somebody trying to run away from his mandate and we cannot tolerate this because our people down there are suffering. Thank you.

**The Deputy Speaker** (Hon. Harrison Mutie): Member for Nguumo, did you provide a list of some of the roads that you feel are grossly encroached to the Committee on Roads within your Ward instead of the Committee looking at all roads that are within your Ward.

**The Member for Nguumo Ward** (Hon. Alfred Nyamai): That is why I brought this Statement here. I wanted to see them come down to my Ward so that I can show them. During the last time when I reintroduced the Statement, in his response the Chairperson said he needs time so that he can come to my Ward. Therefore, I do not know what is happening. I am still waiting for them.

**The Deputy Speaker** (Hon. Harrison Mutie): Very well. Any Member willing to contribute to this Report? Yes Hon. Kitunga.

**Hon. Janet Kitunga**: Mr. Deputy Speaker thank you for the opportunity and mine is a concern. How can an ECM say that he cannot differentiate the County roads and the National roads and he is the one whom we are relying upon to deliver to this County? Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Yes Hon. Mbalu.

**The Member for Kikumbulyu North** (Hon. Jackson Mbalu): Thank you Mr. Deputy Speaker. This is a very common problem we are getting actually on the ground; the road encroachment of the feeder roads. On our side we are actually using the Assistant Chiefs with the Village Administrators coordinating with the locals such that they agree because if they do not come to that agreement roads will not be identified. I have found that if we will be able to use the same format in other areas where the Village Administrator and the Area Chief will coordinate with the local community to come together and agree on the way forward so that they do not bring complications so that our feeder roads are heavily encroached. It is only that the

cooperation with the community must be sought on this. That is my contribution Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Bernadette.

**Hon. Bernadette Mutisya:** Thank you Mr. Deputy Speaker. I wish to draw your attention again to the ECMs letter which is dated 21<sup>st</sup> February received in the County Assembly on 27<sup>th</sup>. It seems the Committee wrote to the ECM on 17<sup>th</sup> of January. This is more than a month and they had all the ample time to respond to the Committees concerns. Therefore, I think more action should be taken against the ECMs to be prompt in their responses. By this time they should have gone to site and taken record of all of the feeder roads and given a concrete answer to the Committee. Thank you Mr. Deputy Speaker.

**The Deputy Speaker** (Hon. Harrison Mutie): Thank you very much. As far as this Report is concerned I direct as follows; Chairperson Committee Roads and your entire Committee, Member for Nguumo is dissatisfied and when you look at the response from the ECM, they are saying they usually carry periodical surveys of all classified County roads and therefore it is within the knowledge of this House, that the ECM needs to know the measurements of a County road and therefore we need that communication so that any road that we consider a feeder road we know what measurement it is so that all the Members can stand guided. Therefore, I guide that you invite the ECM in person to make that clarification and you report back to this House within five days. Thank you very much.

## ADJOURNMENT

**The Deputy Speaker** (Hon. Harrison Mutie): Hon. Members the time now being 16.47 the House stands adjourned until Thursday 1<sup>st</sup> March, 2018 at 2.30p.m.

*(House rose at 4.47 p.m)*