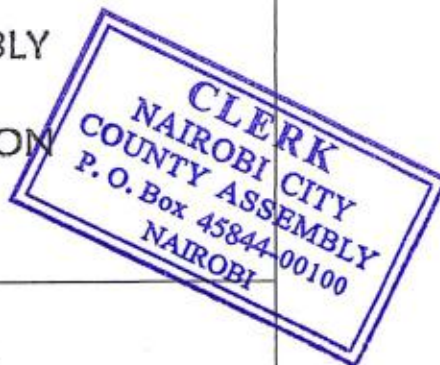


Report laid on 24/10/14  
by Hon. Hashim Kama  
PCA (L.P.)



NAIROBI CITY COUNTY ASSEMBLY

FIRST ASSEMBLY - SECOND SESSION



ELEVENTH REPORT OF THE SECTORAL  
COMMITTEE ON WATER AND SANITATION

ON

THE PETITION PRESENTED BY RESIDENTS OF RUNDA ESTATE ON  
THE SERVICES PROVIDED BY RUNDA WATER LIMITED

OCTOBER, 2014

## Table of Contents

### Preface

|  |    |
|--|----|
| 1.0 Background.....  | 3  |
| 2.0 Committee investigations.....                                  | 4  |
| 2.1 Introduction.....  | 7  |
| 2.2 Evidence.....  | 7  |
| 2.2.1 Submission by Runda Water Limited and Runda Association..... | 7  |
| 2.1.2 Submission by the petitioners.....                           | 9  |
| 3.1 Observations, Conclusion and Recommendations.....              | 11 |
| 3.1.1 Observations.....  | 11 |
| 3.1.2 Conclusion.....  | 12 |


Preface

1. The Committee on Water and Sanitation is one of the Sectoral Committees established under Standing Order 191. Under the Second Schedule it is mandated to consider matters related to water and sanitation services; water distribution, regulation, marketing and sewerage services. Its functions pursuant to Standing Order 191 are to:
2. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
3. Study the programme and policy objectives of departments and the effectiveness of the implementation;
4. Study and review all county legislation referred to it;
5. Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
6. Investigate and inquire into all matters relating to the assigned department as they may deem necessary, and as may be referred to them by the County Assembly;
7. To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*) and
8. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Hon. Members,

On behalf of the committee on Water and Sanitation, it is my pleasant duty and privilege, to present the Committee's Report on the Petition presented to this Assembly by the residents of Runda on the services provided by Runda Water Limited.

DATE. 30/10/2014

SIGN. 

for HON. ALEX OUDA OTIENO, CHAIRMAN

## 1.0. Background

1.1 On 26<sup>th</sup> June 2014, a Petition signed by the resident of Runda was presented on the Floor of the Assembly through the Ward Representative for Karura Ward, the Hon. Kamau Thuo pursuant to Standing Order 195(b) and the same referred to the Committee on Water and Sanitation for consideration and reporting pursuant to Standing Order 202. In the Petition, the petitioners raised a number of concerns as follows:

- i. The cost of Runda Water Limited is more expensive than that supplied by Nairobi City Water and Sewerage Company.
- ii. Runda Water Limited imposes other charges in their bills and forces people to pay for such services regardless of whether or not residents have separate arrangements
- iii. Runda residents are forced to sign agreements as part of water provision binding themselves to be procuring garbage and security services from Runda Water, its affiliates or companies approved by it, notwithstanding the fact that such services are not competitively procured for the benefit of the residents.
- iv. Most residents of Runda would be more comfortable obtaining water from Nairobi City Water and Sewerage Company since it is cheaper and of better quality and that in any event, Runda water buys a very large amount of water from Nairobi Water and Sewerage Company (a huge part of what it supplies) from Nairobi Water and Sewerage Company which it re-sells expensively which they term as exploitative price.
- v. The residents are treated by Runda water limited harshly because Runda Water claims that their rights to supply water within what they claim their zones cannot be challenged
- vi. The zoning right claimed by Runda Water is unconstitutional (The Water Bill should not allow zoning). That if it is to be allowed, it can only work fairly if all the following conditions by zoning are similar, comparable and equal: price, billing unit, quality of water, and service quality, which is not so in the case of Runda Water

1.2 The Estate is found in the Northern part of Nairobi City and covers an estimated area of 14 km<sup>2</sup>.

1.3 Runda Water Limited (RWL) is a subsidiary company of Runda Residents Association which holds 75% whereas 25% is owned by Pan Africa Insurance Holdings. The Activities of the company are overseen by a Board of Directors whose members are drawn from the Runda Association and the General Manager is elected by the Board. Runda Water Limited was incorporated as a private company in Kenya on the fifth of October 1973.

1.4 The Company started operations in 1975 after being gazetted under the Water Act (Cap 372) on 6<sup>th</sup> February 1975.

1.5. The operations by Runda Water Limited were occasioned by the residents' need to be supplied with reliable and constant supply given the challenges with the provision of the service by Nairobi Water and Sewerage Company.

1.6. From 1975 to 2003, Runda Water Limited operated under the Water Act- Cap 372 until it was repealed by the Water Act 2002. Runda water Limited signed a Service Provision Agreement (SPA) with Water Services Regulatory Board at the recommendation of the Athi Water Services Board (AWSB). The Service Provision Agreement expired in April 2013 and it has not been renewed with the coming into place of the Kenya Constitution 2010.

Runda Water Limited provides the following services to the residents of Runda:

**i. Water supply**

Runda Water Limited provides water to all residents of Old Runda and Runda Mimosa Estates. The water supply is metered in all houses and consumers are billed once at the end of every month. The water supply to consumers is as per the volume of water consumed. The Company supplied water to over 1,250 homes in the old Runda (block 7785/10), Runda Mimosa (block 112) and parts of Mumwe Estate.

---

---

ii. **Garbage collection**

Garbage is collected from all residential houses three times a week, that is, 12 times a month. Garden trimmings and building debris are also collected at a fee.

---

---

iii. **Street/ roads cleaning**

The road cleaning team which consists of permanent employees operates over old Runda and Mimosa on daily basis. The service includes cutting of grass on road verges, clearing of blocked drainages, cleaning of roads and streets as well as clearing of any rubbish which might have been left by the roadside.

---

---

iv. **Streetlights maintenance**

There is a daily maintenance of street lights within the estate which includes replacement of burnt out mercury bulbs, capacitors, chokes and cut-outs.

---

---

v. **Security**

This is the daily manning of the 6 main entrance and the exit points in the estate and daily patrols (day and night).

---

---

1.6. Runda Water Limited operates three main premises which includes intake works, water treatment plant and storage tanks and staff quarters.

The Company abstracts raw water from Ruaka River which is pumped to the treatment works at the Runda Water Treatment Plant from which the residents get their water for consumption. The Company is licensed by Water Resources Management Authority to abstract 2700m<sup>3</sup> of Raw Water from Ruaka River per day.

In addition to the water abstracted from the Ruaka River, Nairobi Water and Sewerage Company supplements Runda Water Limited at the rate of 800 m<sup>3</sup> per day for which they pay Kshs. 700, 000/ month. The water sold by Nairobi Water and Sewerage Company to Runda Water Limited is 30% of total volume supplied by Runda Water Limited.

1.7. The Runda Association is an organization of the residents whose jurisdiction extends to properties falling under Lands references 7785 and Nairobi Block 112. The Association owns the Runda Water Limited which supplies water within the jurisdiction of Runda Association.

The Association Committee consists of residents of Old Runda and Mimosa who are Members of the Association and are elected during the Annual General meeting. The Committee is made up of Security, Finance, Development and Environment, Communications, Social and Welfare and Legal sub-Committees.

## 2.0 Committee investigations

### 2.1 Introduction

Pursuant to Standing Order 202, the Committee had sixty (60) days to consider and compile a report to the Assembly. In pursuit of the foregoing, on 18<sup>th</sup> July 2014, the Committee conducted a visit to Runda Water Limited to get their views about the concerns raised by the petitioners. At Runda Water Limited, the Committee met the General Manager, the Chairman of Runda Water Limited and the Chairperson of Runda Association.

Further a meeting of the Committee held on 21<sup>st</sup> July 2014, resolved that the petitioners be invited to attend meeting on 24<sup>th</sup> July 2014 so that they could make clarifications on the concerns raised in their Petition to the Assembly.

All of the five petitioners who signed the Petition were invited and expected to attend the meeting on 24<sup>th</sup> July 2014, however, only one Petitioner, Dr. K.M Mwithimbu turned up to give his submissions.

### 2.2 Evidence

The Committee took both oral and written evidence from the following groups;

#### 2.2.1 Submission by Runda Water Limited and Runda Association

The Committee visited Runda Water Limited on 18<sup>th</sup> July 2014 and was accompanied by the Chief Officer, Water, Energy and Natural Resources, Eng. Michael Ngari and the Nairobi Water and Sewerage Company's Technical Director, Eng. Nahshon Muguna. The Committee Met the Chairman, Runda Water Limited Board of Directors and the Chairperson, Runda Association at the premises of Runda Water Limited who discussed with the Committee as follows;

- i. While responding to the concern that water from Runda Water Limited is expensive than that of Nairobi Water and Sewerage Company, the Chairman of Runda Water

---

---

Limited Board of Directors concurred with the sentiment. However, he told the Committee that the Company operates on three levels of pumps, that is, at the intake, at the filter tanks and to storage tank for supply. All the pumps are powered by electricity. The Committee was informed that the Company pays electricity bill of Ksh. 1.2 million per month on average.

The Chairman of the Board of Directors further stated that the Company has a work force of 42 employees who run the operations under water who are under the remuneration of the Company and that the residents are guaranteed access to water throughout.

Furthermore, the Chairperson of the Runda Association told the Committee that the tariffs that appear on the bills of the residents are on an as-consumed basis are approved by the Water Service Regulatory Board and the other service charges are approved in the Association's Annual General Meetings where over 300 people attend with the quorum being 200 people. In addition, the Committee was informed that water is sold to Runda Water Limited by Nairobi City Water and Sewerage Company at the rate of Ksh. 26.70/ m<sup>3</sup> .Therefore, the Committee was told that the services provided are commensurate and worth the chargers.

- ii. On the question of other charges included in the water bills, the Chairman of the Board concurred that there are other charges on the composite bill as follows:
- a) Garbage collection- Ksh.650
  - b) Security -Ksh.1,500
  - c) Street maintenance-Ksh. 400
  - d) Street lights-Ksh.400
  - e) VAT@16%-Ksh.624

He told the Committee that garbage is collected three times a week by a work force of 80 people, where 42 are employed on permanent terms and all are paid singly by the Company. He informed the Committee that a number of people had petitioned the County Government that they no longer wished to be members of the Association, he met with the team from the County while expecting that the lawyers of the petitioners



would appear but they did not turn up and the meeting was called off despite the invitation because neither the Petitioners nor lawyers to the petitioners turned up.

iii. On the question of exclusivity to supply water by Runda Water Association, the Chairman of the Board informed the Committee that the authority to supply water to Runda came with the enactment of the Water Act 2002 when a Service Provision Agreement was signed with Athi Water Services Board within the regulatory framework in place to supply water to Old Runda and Runda Mimosa. Further, Water Service Regulatory Board (WASREB) was not of the idea that two competing parallel lines operate within the same Zone while other areas are subject to water rationing and therefore agreed that Runda Water provides the services.

In addition, the Committee was informed that a number of Runda residents had in the year 2000 sought letters of no objection from the then City Council to have them supplied with water resource by Runda Water Limited and the letters were given to them as requested.

iv. In conclusion, the Committee was told that the charges on other services apart from water are uniform across the board but water is on the as-consumed basis and all residents are subject to similar agreement terms upon becoming a resident within the jurisdiction of the Company.

#### 2.1.2 Submission by the petitioners

##### Dr. K. M. Mwithimbu's Submission

Dr. Mwithimbi, being one of the petitioners, told the Committee that he has been a resident of New Runda for a long time (over 20 years), and that he has been a very happy customer of Nairobi Water and Sewerage Company (NWSC), which has supplied his residence with water for all that period of time. He stated that for one of his building projects in another part of Runda (plot number LR 7785/334), in June 2009, he applied to NWSC for water connection.

He said that after conducting a survey, NWSC approved the application on 22-6-09, and requested him to make payment for the connection, which he did. NWSC then requested

him to engage a contractor to lay the water pipes, which the contractor did up to the NWSC water source near the Danish Embassy on Runda Road.

He explained that, thereafter, NWSC tried to do the connection to the water source twice—in November 2009 and December 2010—without success, because Runda Water staff stopped the connection claiming exclusive right of supply in that area. After Runda Water staff stopped connection the first time, the second time Dr. Mwithimbu approached the Managing Director of Runda Water Limited with the documents from NWSC, and requested him to allow the connection, and the Runda Water CEO gave verbal approval.

He further explained to the committee that, however, while the connection was going on, an employee of Runda Water Limited, came with some hired thugs and police officers from Runda Police Station, and destroyed his pipes, and then arrested his workers, confiscated the plumbing equipment; and took them to Runda Police Station. The Runda Water Limited gang and the police had also threatened to arrest the officers from Nairobi Water and Sewerage Company.

He said that following the arrests, he went to see the Officer Commanding Station—Runda Police Station, and requested him to release the workers and equipment, because they had been wrongly detained. The workers were released the same day, but the plumbing equipment was withheld and released after two days. He observed that instead of destroying his pipes and making arrests, the correct thing to do would have been for Runda Water Limited to take proper legal action to address any grievances they might have had, instead of taking the law into their own hands.

He further explained that by comparing the water bills from the two companies, it is evident that the water from Runda Water Limited is about four times more expensive than that of NWSC, and therefore would prefer to get water for his new project from NWSC. He informed the committee that, however, he continues to be billed by NWSC, for water that is yet to be connected to his plot number LR 7785/334, where there is ongoing construction using water purchased from a vehicle water vendor.

He further stated that the zoning rights claimed by Runda Water Ltd to exclusively supply some areas, are unconstitutional and illegal. He also explained that charges for other services such as street lighting, road maintenance, included in water bills of Runda Water Limited are also unconstitutional and illegal because under Article 186 and Schedule 4 of the constitution, those services (including water) are the responsibility of the county government.

He explained that it was clearly exploitative for Runda Water Ltd to buy water from NWSC at the rate of about Kshs. 20/M<sup>3</sup> and then sell it to consumers at the rate of about Kshs. 80/M<sup>3</sup>; thus on average the water bills of consumers of Runda Water Ltd are about four times those of NWSC. He stated that under Article 186 and Schedule 4 of the Constitution, the county government has a constitutional role to provide water to its citizens and as far as possible should do so directly, rather than through exploitative water providers. He stated further that the claim by Runda Water Limited that they only get 30% of their water from NWSC should be verified thoroughly by NWSC and corrective action taken if necessary.

Following the foregoing submission, Dr. Mwithimbu requested the Committee to recommend the liberalization of water supply so that residents are able to freely choose their water provider. He also recommended that Runda Water Limited should stop using a coercive water agreement that links water supply to payment for other services (not related to water) and to membership of Runda Association (one must register as a member of Runda Association to get water), because such a coercive agreement is unconstitutional and illegal. Further, he recommended that Runda Water Limited should stop charging for other services in their water bills because as he had explained earlier, that practice is unconstitutional and illegal.

---

### 3.1 Observations, Conclusion and Recommendations

#### 3.1.1 Observations

Arising from the investigations, the Committee made the following observations:

- a) Runda Water Limited is largely a property of Runda Association that was licensed by Athi Water Services Board to supply water to Old Runda and Runda Mimosa which expired in April 2013 but hitherto, has not been renewed.

- 
- 
- b) Runda Water Limited supplies metered water and includes charges on garbage collection, security levy, street maintenance, street lighting maintenance on the water bill and was permitted by Water Resources Management Authority to abstract not more than 2,700 m<sup>3</sup> per day from Ruaka River
  - c) Nairobi Water and Sewerage Company supplements Runda Water Limited with bulk water of 800m<sup>3</sup>/day at the rate of Ksh.20/m<sup>3</sup>
  - d) One is required to be a registered member of Runda Association, which is a precedent rule, for one to apply for water from Runda Water Limited. This agreement binds the clients to the other service charges.
  - e) Water charges for Runda Water Limited are more expensive than that supplied by Nairobi Water Limited and that the company has employees on remuneration who work on the various services provided by the Company.
  - f) The tariffs on water supplied by Runda Water Limited are approved by Water Services Regulatory Board and not arbitrarily by the Company
  - g) The petitioners want water service provision liberalized so that one chooses from which provider to get the resource.
- 

### 3.1.2 Conclusion

Five residents of Runda signed and presented a petition through the area Ward Representative to the County Assembly for consideration on 26<sup>th</sup> June 2014 and the same referred to the Sectoral Committee on Water and Sanitation for consideration and reporting pursuant to Standing Order 202. The Petition bore a number of concerns concerning water service provision in Runda Estate.

To fulfill this, the Committee conducted a visit to Runda Water Limited on 18<sup>th</sup> July 2014 to investigate the concerns raised. Further, the Committee invited the petitioners to attend a meeting of the Committee on 24<sup>th</sup> July 2014 in order for them to give clarification on the issues they raised in the Petition. One petitioner attended the said meeting and made his submission. Therefore, pursuant to Standing Order 202, the Committee had an obligation to interrogate the submissions on both sides and compile this report for tabling in the Assembly.

### 3.1.3 Recommendations

The Committee urges this Assembly to adopt the recommendations of the Sectoral Committee on Water and Sanitation as follows:

- 1) The county government to liberalize access to water services so as to allow county residents to freely choose their water provider, which is their constitutional right.
- 2) Runda Water Ltd to apply for abstraction of more raw water from Ruaka River to satisfy water demand for consumers in their jurisdiction.
- 3) Nairobi Water and Sewerage Company to do an audit of the quantity of bulk water drawn from it by Runda Water Ltd to ensure that the quantity drawn complies with the existing agreement, and rectify the position if necessary.

---

---

---

---

---

---

---

---

---

---

---

---

---

---