

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Tuesday, 11<sup>th</sup> August, 2020**

The House met at 2.37 p.m.

*[The Temporary Deputy Speaker (Hon. Mwikali) in the Chair]*

**PRAYERS**

*(Quorum Bell rung)*

**Hon. Temporary Deputy Speaker:** Mr. Clerk, proceed. Hon. Members, I take this opportunity to welcome you to this afternoon sitting and pray you become the best you ever wanted to be. I invite you to debate vigorously for your county. Proceed, Mr. Clerk.

**MOTION**

**REPORT ON STUDY VISIT TO MOSHI MUNICIPAL COUNCIL, TANZANIA**

**Hon. Temporary Deputy Speaker:** On this Order, Members, you have a motion report of Justice Committee on benchmarking study visit to Moshi Municipal council by Hon. Moffat Maitha chairperson Justice Committee. Welcome Hon. Moffat Maitha.

**Hon. Maitha:** Madam Speaker, motion report of Justice Committee on benchmarking study visit to Moshi municipal council.

Madam Speaker, that aware that the objects of devolution of government as provided in Article 174 (a) (b) and (c) of the Constitution includes;

- a) Promote democracy and accountability in the exercise of power;
- b) Foster national unity by recognizing diversity and
- c) Give to the people the powers of self-governance with a view to enhance their participation in decision making processes at all levels of government.

Aware that benchmarking is one of the most efficient tools democratic legislatures and organizations such as parliaments can adopt with specific focus on identifying, analyzing and adopting best practices and implementing the best results to improve their operations and performance;

Further, aware that the objective of study visit to Moshi Municipal Council in Republic of Tanzania was to enable the Committee appraise itself with the leadership structure, role and operations of the Moshi Municipal Council in administration of law and justice, get an understanding of the challenges faced

by the council in discharging its mandate, the policies and laws enacted to address the challenges among others;

Hon. Speaker, I wish to move a motion that this honorable house discusses and approves the Justice and legal Affairs committee report on educational study visit to Moshi Municipal Council in Republic of Tanzania.

Madam Speaker, I would wish to request Hon. Nyawira to second the motion.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Moffat Maitha. Hon. Jane Nyawira.

**Hon. (Ms.) Nyawira:** Thank you, Madam Speaker. I second the motion.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Jane Nyawira. Hon. Moffat Maitha kindly read your report. I will request that you go through the main areas of your report kindly.

**Hon. Maitha:** Thank you, Madam Speaker. Madam Speaker, I would wish to go through page one about introduction, page four about overview of the council. Page eight on committee recommendations, Madam Speaker.

## *2.0 COMMITTEE MEMBERSHIP*

Madam Speaker, the County Assembly Justice and Legal Affairs Committee comprises of the following 13 Hon. Members.

1. Hon. Moffat Maitha – Chairperson
2. Hon. Jane Nyawira -Vice Chairperson
3. Hon. Eric Musembi -Member
4. Hon. Alice Nzioka
5. Hon. Dominic Ndambuki
6. Hon. Francis Kalumu
7. Hon. Patrick Kituku
8. Hon. Mohammed Ali
9. Hon. Cosmus Masesi
10. Hon. Robert Kisini
11. Hon. Stephen Mwanthi
12. Hon. Tariq Mulatya
13. Hon. Winfred Mutua

### *Composition of the Delegation*

The delegation was composed of the following eight Hon. Members and one member of staff:

1. Hon. Tariq Mulatya -Leader of Delegation
2. Hon. Fredrick Muthoka
3. Hon. Jane Nyawira
4. Hon. Betty Nzioki
5. Hon. Alice Nzioka
6. Hon. Patrick Kituku

7. Hon. Stephen Mwanthi
8. Hon. Justus Kitengu
9. Ms. Sarah Mwanja –Clerk Assistant supporting Justice and Legal Affairs Committee

#### *4.12 Overview of the Council*

During this engagement, the delegation was given insight on how Moshi Municipal Council operates under directives of the full Council, which is a Supreme body for legislative responsibilities. The delegation was further provided with the following information on public finance management:

1. That under the Full Council there are three standing Committees whose mandate is to oversee issues related to finance, social services as well as environment and city planning and are directly answerable to the full council.
2. On the implementation of projects, the Council has ward development Committees based at the ward levels and are mandated to come up with development priorities for ratification at the full Council meeting.
3. To achieve its priorities, the presented projects are rationalized and fitted within the annual budgets which once passed by the full Council are forwarded to the National Assembly of Tanzania in Dodoma for final approval through the resolution of the Council on budget estimates.
4. The Chief Executive for the Municipal Council is the Municipal Director who is responsible for the day-to-day activities and that under the Municipal Director, there are 10 heads of departments who are sub-accounting officers and one legal officer.
5. Payments of salaries and allowances made for Council Members and the members of staff are done from the National coffers to avoid issues of ghost workers and ballooning wage bill. With this, a big share is left for utilization in development projects.

In a nutshell, Madam Speaker, delegates were informed that the Local Government Authorities (LGAs) are the main providers of basic services to the people and are therefore major implementation arms of Government policies at the local level.

Specifically, the Local Government Authorities undertake the following functions:

1. To oversee and execute the policies, laws, regulations, procedures and guidelines from the Central Government;
2. To carry out community development in economic terms, for the people within the areas of their jurisdiction;
3. To plan and execute development programs and projects through participatory approaches and;
4. To mobilize communities in the fight against poverty, ignorance, diseases and especially in the fight against poverty under the National programme on poverty alleviation.

Madam Speaker, when we go to page 7 because Hon. Members can follow that through their tablets.

### *5.0 LESSONS LEARNT*

1. Efficiency in implementation of approved projects. The Council despite having limited resources, had managed to build over 100 classrooms in less than three months, constructed and equipped a number of health facilities among other while still undertaking others.
2. Transparency in management of public finances has been greatly inculcated in the government. The team was informed that there were rare cases of misuse of public funds and those found culpable are dealt with decisively.
3. Procurement and its processes is a tool to enhance implementation of development project. The municipal director submitted that officers mandated to undertake procurement prepares their plans in time and put in measures that 60 per cent of the budget allocated for development is expended by the end of the financial year.
4. Use of the right technology coupled with political and officers' goodwill can greatly bolster revenue generation. The council's e-payment systems had been able to double the revenue generated annually.
5. Bottom-up approach is the best method of budgeting. The Council uses the ward development committees as the first step in identification of projects and this improves the confidence and acceptability of the development projects in general.

### *6.0 COMMITTEE RECOMMENDATION*

Madam Speaker, corruption and unethical conduct have been identified as some of the threats to the realization of the objects of devolution and following the visit to Moshi Municipal council, the committee recommends that:

1. The County Government should put in place mechanisms for social accountability in the financing and implementation of projects funded from public coffers. This can be achieved through full implementation of IFMIS and e-procurement at the county, sub-county and ward levels by ensuring accurate financial tracking system of procurement and expenditure as budgeted and approved.
2. There is need to institute sanctions against County Officials working in County Departments which do not fully comply with the Constitution, Leadership and Integrity Act and Public Finance Management Act, Public Procurement and Asset Disposal Act and other laws aimed at enhancing accountability to curb corruption within the County. This will help in deterring any public office which infringe or violate any law.
3. The Office of the Controller of Budget should enhance its oversight role to ensure that funds allocated to various county Departments are not misappropriated through corrupt transactions. This can be achieved through coordination and cooperation of the office of the Controller of Budget and Assembly by assisting in capacity building of the members of Assembly to enhance their capacity in oversight role.
4. There is need to embrace e-revenue management system by the county Treasury. This will help in ensuring that there is accurate and transparent data of all revenue collected within the County Government.

5. To ensure effective and efficient delivery of public services, there is need to adopt a bottom-up approach through public participation for identification of projects to be undertaken by the County Government and that the County Executive should always be guided by the County Integrated Development Plan and the Annual Development Plan when implementing those projects. This will improve the confidence and acceptability of the development projects as well as project the revenue collected since the public will be motivated to pay the revenue as mandated by relevant laws.
6. The County Treasury should enhance capacity building of revenue officers in a bid to ensure that they do no harass citizens when collecting revenue. This will help in creating a friendly business environment for all sectors hence increasing revenue collection.

### *Conclusion*

Madam Speaker, Devolution in Kenya was introduced with the expectation that it would be one of the main drivers of development, poverty eradication, and the realization of the Kenya Vision 2030 goals. Its objectives as provided for under Article 174 of the Constitution of Kenya, 2010 are to promote democracy and accountability in the exercise of power, foster national unity by recognizing diversity and give to the people the powers of self-governance with a view to enhancing their participation in decision-making processes at all levels of government.

Article 10(2)(c) of the Constitution recognizes “good governance, integrity, transparency and accountability” as some of the fundamental national values and principles of governance. Madam Speaker, the visit to Moshi municipal council provided an ample opportunity for the Kenyan delegation to witness how local governments can help, with the right leadership, to improve the lives of the citizens at the very grassroots.

The council despite having an average revenue basket and not being part of the ruling government had made enormous strides towards ensuring the service delivery to the people is not compromised.

### *Acknowledgement*

Madam Speaker, the sectoral committee on Justice and Legal Affairs wishes to sincerely thank the Speaker and the office of Clerk of the County Assembly for the invaluable Support accorded to the committee so as to make this study visit a reality. The Committee further extends its gratitude to His Lordship the Mayor of Moshi Municipal Council Hon. Raymond Mboya who facilitated the team’s visit to Moshi.

During this visit, the delegation was utmost privileged to meet their counterparts who serve as councilors in the Moshi Municipal Council and hold discussions on various issues of mutual interest. Of note was the meeting with the Municipal director who enlightened the team on realm of measures the Municipal had put in place to fast track development initiatives. It did not go without notice that despite it being a busy period for the Council, the elected officials and members of staff were always available to attend to the Kenyan Delegation.

Finally, the committee thanks the members of the sectoral committee on Justice and specifically the members who took part on this visit for their commitment and informative contributions that made the delegations not only fruitful but also invaluable for the success of the exchange program. Hon. Speaker, on behalf of the sectoral Committee on Justice, it is my pleasant duty and utmost privilege to present committee’s report on the benchmarking visit to

Moshi Municipal Council in the Republic of Tanzania to this Hon. House for adoption. Thank you, Madam Speaker.

*(Applause)*

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Moffat Maitha.

*(Question proposed)*

Members, I invite you to debate. Hon. Dominic, Kathiani ward.

**Hon. Ndambuki:** Thank you, Hon. Speaker. There is a lot to learn from our neighbours that is Tanzania in terms of how they legislate and Madam Speaker, that being the central nerve of East African Community, they have done a lot in terms of legislation and one of the lessons that we can draw from them that is evident in the report is the manner that they try to put the management of their affairs of the Assemblies or the Municipal Councils or the County Councils that are defunct in Kenya but are working in Tanzania.

In the report Hon. Moffat Maitha has mentioned that three committees look into money matters and finances of municipal councils and there in the issues of governance are mentioned clearly. Madam Speaker, here in Kenya the Constitution that we enacted and promulgated in the year 2010 has given the County Assemblies some power to oversight how the executive arm of the County Government is managing County resources.

However, as we have seen during the first dispensation on now we are in the second dispensation of County Governments, at times Hon. Members of County Assemblies want to do some things back at their Wards but you will find that they are limited in terms of resources, thereby we are left at the mercies of the Governors, Madam Speaker. How I wish that in the much-mentioned constitutional amendments that we could include a clause just like we have Members of National Assembly being patrons of National Government Constituency Development Fund, these Members could also be patrons of Ward Development Funds.

Then we could have the liberty to go back to our people and ask them to propose for some projects that they wish to have done within their localities. What we have currently, even where we have Annual Development Plan, we also have CIDP, Program-Based Budgets, there could be some counties where you find that even with all that, the Governors do not follow those documents; they do things the way they wish.

Going by the three committees that we have heard, Madam Speaker, if we have such a model where we have a kitty that is put under the stewardship of Hon. Members here, then we could borrow a leaf from that model and we could be able to realize more developments at the grass roots. Thank you, Madam Speaker.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Ndambuki. Hon. Cosmas Kieti.

**Hon. Kieti:** Thank you, Hon. Speaker. I want to thank the chairman of Justice and his Committee and the secretariat for the report that they have presented to this House; it is a good report and it is an eye-opener to us in Machakos County where we also have municipalities which are not functional. Madam Speaker as it is highlighted in that report; the idea of devolution in Kenya was a noble one; it was meant to trigger development in the

grassroots but what we have devolved mostly I may say, it is like we our country devolved corruption.

County Assemblies have been sitting down, passing itemized budgets but when it comes to implementation, we have always failed. Citing examples, we passed a supplementary budget the other day and there is nothing on the ground and time is elapsing. Last year we passed a budget of Ksh. 13 billion and nothing is on the ground. So Madam Speaker, the idea of devolution of it is well taken care of I know development can be achieved. The idea behind the Municipalities in Moshi as observed by the committee; they have committees which are functioning and that is why when you visit such towns in Tanzania, you can see development and things working.

Our Municipalities, as I earlier said, are not functional; they are just there for the sake because the other day I was with the municipal managers here and it is as if they are there to occupy the office. There is nothing they are implementing on the ground. It is the work of the Executive to implement programs within the municipalities. So, it is the high time we mandate and gave them power so that they may implement the programs within the specific municipalities that we have in Machakos as observed in Moshi what the committee observed.

So, let us not just take this benchmarking for the sake of it; let us see them working and replicated in our systems so that our people can be able to get that kind of development that is being observed elsewhere. Otherwise, I thank you and support the report, Madam Speaker.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Kieti. Let us see Members in the extended chamber; I do not know whether they would like to comment. I think they are satisfied with the contributions that have been done; I now invite the mover to reply.

**Hon. Maitha:** Thank you, Madam Speaker. I first I want to thank the Hon. Members who have contributed to this motion and again to thank the Members who visited Moshi for this benchmarking tour. Madam Speaker, this was a good lesson learnt by our Members for the study visit; you can see the people of Tanzania are so organized that even in the villages, they have village committees which are undertaking projects by the government of that Municipal Council. How I wish in our county such things are happening for easy management of the projects when they are being done not he ground Madam Speaker.

One thing which we are lacking is transparency in the management of the projects. If in our county we have project committees who are paid by funds from the contractors who are given work to do, I think something can come from the oversight of those committees on what is happening on the ground, Madam Speaker, because sometimes when a contractor goes on site and those committees are not there; let say they are grading a road, they just pass through the road and later be paid, Madam Speaker.

Again, I would wish the County Assembly takes Members for a course on how to oversee these projects because if you are told to oversee,; what are the parameters of what you are overseeing. It is important for the Members to go for an induction course to know what they are expected to oversight when a projects like this one is on board. Madam Speaker, I thank you so much.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Moffat Maitha.

*(Question put and agreed to)*

## ADJOURNMENT

**Hon. Temporary Deputy Speaker:** The House now adjourns to 18th August, 2020 at 10.00 a.m. Thank you.

The House rose at 3.16 p.m.