

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 12th March, 2019

The House met at 2.36 p.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

Hon. Speaker: Good afternoon, Hon. Members; we continue with sitting for this afternoon. I will call upon the Clerk to proceed.

COMMUNICATIONS FROM THE CHAIR

Hon. Speaker: Hon. Members, you notice that we are mixing the two but it is on the way to becoming digital. So, I have this and I have this; I am hoping you are doing the same so that we finally we wean completely off papers and go digital. Hon. Members under this Order, I have two communications to make.

**REPORT OF THE AUDITOR GENERAL ON FINANCIAL STATEMENTS OF THE COUNTY
GOVERNMENT EXECUTIVE ARM FOR THE YEAR ENDED 30TH JUNE, 2018**

Hon. Members the assembly received a report from the Auditor General on the 5th day of March, 2019 in accordance with Article 229(7) of the Constitution of Kenya. The report is on the financial statements of the county government executive arm for the year ended 30th June, 2018. Hon. Members, the report is hereby committed to the Public Accounts and Investments Committee and the committee is required to interrogate the report and file its findings in the House within three months as per the provisions of Article 229(8) of the Constitution.

**NOMINATION OF CHAIRPERSON AND SECRETARY OF THE MACHAKOS COUNTY PUBLIC
SERVICE BOARD**

The second communication, Hon. Members, is on information received from the county executive and this is on nomination of chairperson and secretary of the Machakos County Public Service Board. Hon. Members Section 58(1) of the County Governments Act 2012 provides that the composition of the County Public Service Board shall comprise the chairperson nominated and appointed by the Governor with the approval of the Assembly and not less than three but not

more than five other members nominated and appointed by the county Governor with the approval of the Assembly and finally a Certified Public Secretary of good professional standing nominated and appointed by the Governor with the approval of the Assembly and that person will be the secretary to the board.

Hon. Members, pursuant to this provision, the Assembly received nominations for the positions of the chairperson and secretary to the County Public Service Board for vetting and approval by the Assembly. Hon. Members, the nominees are hereby committed to the committee on appointments for purposes of vetting and approval. Thank you, Hon. Members. Mr. Clerk, proceed.

PAPER LAID

CALENDAR OF THE THIRD SESSION OF THE SECOND ASSEMBLY

Hon. Speaker: Hon. Members, under this Order, we have one business by the Majority Leader, Hon. Mark Muendo.

Hon. Muendo: Thank you, Madam Speaker. Madam Speaker, pursuant to Standing Order 25(1) and 151 (5)(a) I wish to lay on the table of the assembly today Tuesday, 12th day of March, 2019; the Report of House Business Committee on the Calendar of third session of the Second Assembly of Machakos County Assembly. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mark Muendo. Mr. Clerk, proceed.

NOTICES OF MOTIONS

DEPARTMENTAL REPORT OF TOURISM AND CULTURE FOR 2017/2018

Hon. Speaker: Hon. Members, under this Order, we have two businesses. The first one is by the Hon. Betty Nzioki and the second one by the Hon. Mark Muendo. Hon. Betty Nzioki.

Hon. (Ms.) B. Nzioki: Thank you, Madam Speaker.

Hon. Speaker, that aware that Article 183(3) of the Constitution of Kenya 2010 stipulates that the county executive committee shall provide the County Assembly with full and frequent reports on matters relating the county;

Further aware that the Article 185(3) states that the County Assembly while respecting the principle of separation of powers may exercise oversight over the county executive committee and any other county executive organ;

Hon. Speaker, aware that Standing Order 190(5)(b) mandates sectoral committees to study the programme and policy objectives of the departments and the effectiveness of the implementation;

Acknowledging that the committee on Culture, Social Welfare and Tourism received the departmental report for the financial year 2017/2018 from the department of tourism and culture;

Cognizant of the fact that the committee conducted a site visit to ascertain the status of the project indicated in the report and compiled a report;

Hon. Speaker, I wish to give a notice of motion that this Hon. House discusses and approves the tourism and culture departmental report for the year 2017/2018.

Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Betty. Hon. Mark Muendo.

CALENDAR OF THE THIRD SESSION OF THE SECOND ASSEMBLY

Hon. Muendo: Thank you, Madam Speaker.

Hon. Speaker, aware that the House Business Committee is mandated to prepare and if necessary from time to time adjust the Assembly calendar with approval of the House;

Aware the Assembly has resumed from long recess for third session and that the House needs to be guided on the days of this session;

Further aware that the regular sessions of the Assembly should commence on the second Tuesday of February and terminate on the first Thursday of December except the session commencing immediately after the General Elections;

Aware that the Assembly once approved by the House shall be published in the gazette, the Assembly website and at least two newspaper of national circulation;

Hon. Speaker, I wish to give notice of motion that pursuant to Standing Orders 25(1) and 151(5)(a), the Assembly approves the report of the House Business Committee on the calendar of the Assembly of Machakos County for 2019 for the third session.

Thank you, Hon. Madam Speaker.

Madam Speaker: Thank you Hon. Mark Muendo. Mr. Clerk, proceed.

STATEMENT

BUSINESS FOR THE HOUSE FOR 13TH MARCH TO 2ND APRIL, 2019

Hon. Speaker: Hon. Members, on this Order we have one business by the Hon. Mark Muendo, Leader of Majority.

Hon. Muendo: Thank you, Hon. Speaker. Hon. Speaker, I stand under Standing Order 41(2)(a) where during the statement hour, a member of the House Business Committee designated by the committee for that purpose shall for not more than 10 minutes present and lay on the table a statement informing the House of the business coming before the House.

Hon. Speaker the House Business Committee meet today 12th March, 2019 and balloted additional business for this week and for the week of 19th to 20th March and part of the week of the 2nd and 3rd April, 2019 pursuant to the provisions of the Standing Order 151 as follows:

Wednesday, 13th March, 2019

Morning at 10.00 a.m.

Report of House Business Committee on Assembly calendar for the third session by Hon. Florence Mwangangi, Chairperson.

Afternoon at 2.30 p.m.

- a. Motion on the pursuant to Standing Order 189A the House approves committee membership of Powers and Privileges Committee by Hon. Mark Muendo, Majority Leader.

- b. Report of Powers and Privileges Committee on Administration, Procedures Report by Hon. Florence Mwangangi, Chairperson.

Tuesday 19th March 2019

Morning at 10.00 a.m.

Report of Budget and Appropriations Committee on Controller of Budget Report for the first quarter for financial 2018/2019 by Hon. Dominic Ndambuki, Chairperson.

Afternoon at 2.30 p.m.

Report of the Assembly Broadcasting and Library Committee on *Bunge Mashinani* Forum by Hon. Florence Mwangangi, Chairperson.

Wednesday, 20th March 2019

Morning at 10.00 a.m.

- a. Report of committee on Appointments on approval of Members of Municipal Board of Machakos Municipality by Hon. Hon. Florence Mwangangi, Chairperson.
- b. Report of Labor, Public Service and ICT Committee on approval of Members of Municipal Board of Mavoko Municipality by Hon. Francis Kalumu, Chairperson.
- c. Report of Trade, Economic and Planning and Industrialization Committee on approval of Members of Municipal Board of Kangundo/Tala Municipality by Hon. Cosmas Kieti, Chairperson.

Afternoon at 2.30 p.m.

Report of Implementation on Bursary Regulations by Hon. Fredrick Muthoka, Chairperson.

Tuesday, 2nd April, 2019

Morning at 10.00 a.m.

Report of budget and Appropriations Committee on educational Tour to Murang'a County by Hon. Dominic Ndambuki, Chairperson.

Afternoon at 2.30 p.m.

Report of Transport and Public Works Committee on educational trip to Tanzania by Hon. Daniel Mbevi, Chairperson.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mark Muendo. Mr. Clerk, proceed.

MOTION

Hon. Speaker: Hon. Members, we have one business by Hon. Francis Kalumu.

PETITION BY KENYA COUNTY GOVERNMENT WORKERS

Hon. Kalumu: Thank you, Madam Speaker.

Hon. Speaker, that aware that Section 15 of the County Government Act, 2012 provides for a person's right to petition a County Assembly to consider any matter within its authority including enacting, amending, or repealing any of its legislation;

Appreciating that the Kenya County Government Worker Union petitioned the County Assembly to address prayers contained therein;

Cognizant that the petition was committed to the Labour, Public Service and ICT committee pursuant to Standing Order 201(1) that provides that every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Sectoral Committee;

Recognizing that the committee conducted investigations, inquired into the matter and prepared a report pursuant to Standing Order 192(5)(a);

Hon. Speaker, I wish to move the Motion that this Hon. House discuss and approves the Labour, Public Service and ICT committee report on the Petition by Kenya County Government Workers Union.

I call upon Hon. Rozina to second.

Hon. Speaker: Hon. Rozina

Hon. (Ms.) Kanini: Thank you, Madam Speaker. I second.

Hon. Speaker: Than you, Hon. Rozina, Hon. Kalumu.

Hon. Kalumu: Thank you, Madam Speaker,

INTRODUCTION

Hon. Speaker, Section 15(1) of the County Governments Act, 2012 states that a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

The Kenya County Government Workers Union petitioned the County Assembly to address their prayers as contained therein;

Hon. Speaker, a petition by the Union was received by the Office of the Clerk and reported to the Assembly pursuant to Standing Order 194(1) which states that a petition to the County Assembly shall be submitted to the Clerk by a petitioner and reported to the Assembly by the Speaker; in line with Standing Order 201 of the County Assembly of Machakos which provides for committal of petitions, the petition was committed to the Labour, Public Service and ICT committee.

MANDATE OF THE COMMITTEE

Hon. Speaker, the committee on Labour, Public Service and ICT was established pursuant to Standing Order 190 and the second schedule of the Standing Orders define its mandate as follows 'to deal with all matters relating to Labour, trade union relations, manpower or human resource planning; information, communication and technology.

COMMITTEE COMPOSITION

Hon. Speaker, the committee is comprised of thirteen members as follows;

- | | | |
|-----|-----------------------|--------------------|
| 1. | Hon. Francis Kalumu | - Chairman |
| 2. | Hon. Agatha Mutunga | - Vice Chairperson |
| 3. | Hon. Alex Kamitu | Member |
| 4. | Hon. Paul Nyanzi | “ |
| 5. | Hon. Constance Nzioki | “ |
| 6. | Hon. Irene Mbivya | “ |
| 7. | Hon. Joshua Muli | “ |
| 8. | Hon. Rozina Kanini | “ |
| 9. | Hon. Jacinta Luka | “ |
| 10. | Hon. Nicholas Mutuku | “ |
| 11. | Hon. Christine Koki | “ |
| 12. | Hon. Justus Katumo | “ |
| 13. | Hon. Dominic Ndambuki | “ |

PETITION: VETTING OF MRS. GRACE MUNGUTI AS COUNTY SECRETARY

Hon. Speaker, the Union while opposed to the vetting of Mrs. Grace Munguti listed the following concerns against her;

- a. That while as the Chief Officer, Labour she failed to manage the Machakos County Labour workforce.
- b. That in the capacity of Chief Officer, Labour, she stopped salaries of staff officers un-procedurally, withheld allowances for staff officers who attended KICOSCA games.

PETITION: NONPAYMENT OF SALARIES OF STAFF OFFICERS

The Kenya County Government Workers Union petitioned the County Assembly on the non-payment of salaries of staff as listed below:

- a. Mr. Christopher Mutinda, ID 8833359 from February, 2017 to date.
- b. Mr. Nicholas Kitavi Nzioka, ID 20940450 from December, 2016 to date.
- c. Mr. David Ouma Otieno ID 20733728 from September, 2017 to date.
- d. Un-procedural salary stoppage of staff officers from Mavoko Sub-County.

The Union informed the committee that the matter of Mr. Christopher Mutinda had since proceeded to court and as such could not be discussed by the committee.

COMMITTEE OBSERVATIONS AND FINDINGS

Hon. Speaker, on the petition challenging the vetting of Mrs. Grace Munguti as a nominee to the office of County Secretary and Head of Public Service, the committee observed that she has been working for the county government in the capacity of Chief Officer, Labour, Public Service and ICT also in the capacity of acting County Secretary.

Hon. Speaker, Section 44(3) of the County Governments Act, 2012 states the functions of the County Secretary as to be the head of the Public Service. While holding the above mentioned offices, Mrs. Grace Munguti failed to create Labour policies and strategies that would tame the issue of ballooning wage bill; the matter of ghost workers has also been a great challenge to the County. These factors have denied development to the County in that more funds are channeled

into the recurrent vote than the development vote hence development projects cannot be sufficiently supported.

Hon. Speaker, in agreement with the petition, the committee vetted Mrs. Grace Munguti on 1st October, 2018 and through the committee report which was tabled and approved in the Hon. House, the committee did not approve Mrs. Grace Munguti as the County Secretary and Head of Public Service.

Hon. Speaker, on the petition relating to staff officers, the committee observed that the Union could not substantiate their claim by providing appointment letters, respective work stations and departments and any other relevant documents they may have relating to the nature of employment. The committee held meetings with the representatives of the Union and agreed that they would present to the committee the requested information and documents. The committee was concerned that despite reminders the documents were not availed.

Hon. Speaker, noting that in the Machakos County Government labour force, there exist the predicament of ghost workers, it was imperative that the Union presents the appointment letters of the petitioners since the understanding of the labour laws requires the County Public Service Board to recruit employees then proceed to issue them with appointment letters.

COMMITTEE RECOMMENDATIONS

Hon. Speaker, the Section 44 of the County Governments Act, 2012 provides for the appointment of the County Secretary with the approval of the County Assembly. The committee acknowledges the consideration and approval of its report by the Hon. House on the vetting of nominees to the office of County Secretary and Chief Officers; in the recommendation contained therein, the committee did not approve Mrs. Grace Munguti as the County Secretary.

Pursuant to Section 10 of the Public Appointments (County Assemblies Approval Act) 2017 which provides for rejection of a nomination, the appointing authority should submit to the County Assembly the name of another candidate for vetting.

Hon. Speaker, it is important that as a County Government we are able to accurately ascertain the actual labour workforce at any given time; this will aid in budgeting, forecasting for the labour workforce and foster accountability. Hon. Speaker, a motion advocating for a staff audit by an impartial audit agency was discussed and approved by this Hon. House.

The committee recommends that funds should be appropriated in the supplementary budget to facilitate the staff audit. The County Assembly budget committee, when considering the supplementary budget, should ensure that the funds are allocated to the recurrent vote of the Department of labour.

Hon. Speaker, cognizant with Section 15(1) of the County Governments Act, 2012 every person has the right to petition the County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation; in line with this the committee advice, the Kenya Government Workers Union should restructure their petition by providing information that was requested by the committee and then re-introduce the petition as soon as possible and assured that the County Assembly will look into their prayers and ensure justice prevails.

CONCLUSION

Hon. Speaker, the County Assembly remains committed to advocacy of its core values among them transparency and Accountability;

The County Public Service Board has failed in the management of the labour force in that the Machakos County Government labour workforce remains unregulated, unaccountable and marred with ghost workers.

Section 59 of the County Governments Act, 2012 provides for the functions and powers of a County Public Service Board; it is the board's function to establish and abolish offices, appoint persons to hold and act in the offices, exercise disciplinary control and advice County Government on human resource management.

Hon. Speaker, as enshrined in Section 59 of the County Government Act 2012, it is correct to put that the County Public Service Board is the backbone of the labour workforce and, as a County Assembly we should endeavor to ensure that we have a credible functioning County Public Service Board that will foster equity, equality, transparency and accountability in the management of the workforce. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Kalumu. Hon. Members I will propose the question but in the reading, I have noted the report has quite a number of mistakes, mostly on the use of English language and this of course lies squarely on the Clerk Assistant who was preparing the report. It is hoped that they will take note and that when Members you are debating, you will be able to separate the typo errors and grammatical errors which are quite a number in the report.

Again let us also try and look at our reports before they come here so that we do not have reports that are full of mistakes, open mistakes. Remember you are a House of record; this is a report to be read by members of the public.

(Question proposed)

Is it Kenya County Government Workers? That is how it is. Alright as it is written; the report is open for debate. Hon. Katumo.

Hon. Katumo: Madam Speaker, I thank the committee for the time they took especially to listen to the members and the representatives of this Kenya County Government Workers Union through their petition and as per the report, you find that they had especially two strong prayers petitioning the vetting of Ms. Grace Munguti as the County Secretary and therefore holding the office in charge of the staff.

Then of course petition on non-payment of salaries of staff and therefore the report is very clear that after having several meetings and requesting from their side to provide documents that will enable the committee in fact to make a good report and to ascertain what they were talking about, they did not come back and they did not even give those documents. You know it is not always that easy just to say that you are a staff or that you are working in a certain institution unless you show a letter that shows of course you are a part of that institution.

Therefore, going by the recommendation of this report, this body failed very much to provide the necessary documents for the committee to be able to ascertain and make...as per our mandate, to be able to really try to help them.

Therefore as a committee supporting the work of this committee and recommendation; they still have a chance to bring those documents to make sure that we can go forth and try to help them. We know, of course, we have been requesting for some of these documents, certain information from the executive especially to know how many workers we have in the workforce, we know how many are employed, their work station, their credentials and much they earn and

their numbers but it has not been forthcoming and therefore with such a petition, it is not very possible to be able to help them. Therefore, it is on that end that they should also provide us with that information.

I support the recommendation by this committee that the County Assembly will be willing and especially for that committee will look into their prayers and ensure justice prevails so long as what is required is given and provided to the committee. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Katumo. Hon. Fredrick Muthoka.

Hon. Muthoka: Thank you, Madam Speaker. I will just make a few comments about the recommendations. I fully support this staff audit because when you do not solve this issue of wage bill on the recurrent expenditure, we will not see any development in our wards. Even you heard the President talking about some counties when we were in Kirinyaga on devolution week, talking of a county with 6,000 employees.

Spending over Ksh. 600 million on salaries, Ksh. 200 million on recurrent; so what are you left with for development? So, I fully support this staff audit and we know how, as an Assembly we will be judged on how we will deal with this work force. In Machakos County, our work force I think is too ballooned; too big. We should trim it to around 3,000 to 4,000 people. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Muthoka. Hon. Musau.

Hon. Musau: Thank you, Madam Speaker. As I usually say; this Assembly will go into the books of record as the House of the most right (??) Hon. Members, Madam Speaker. This is because my attention has been drawn by paragraph two of page four, Madam Speaker whereby it reads; Hon. Speaker, on the petition relating to the staff officers the committee observed that the union could not substantiate their claim by providing appointment letters. Madam Speaker, it is in this aspect I see that the committee observed justice for the petitioned members because there was no evidence provided and then the committee had nothing else to do but just rely on zero.

At this pace, Madam Speaker, we are moving at the right direction; let us credit merit where it deserves and let us say demerit where it also deserves, Madam Speaker. This House is no longer a battlefield; it is a House where justice is being done where it deserves. Thank you, Madam Speaker, thank you to the committee and to the Hon. Chair. Thank you so much.

Hon. Speaker: Thank you, Hon. Musau. Hon. Mitaa.

Hon. Mitaa: Thank you, Madam Speaker for granting me an opportunity to air my views on the report labor, public service and ICT committee. Madam Speaker, I wish to commend the team which under Hon. Francis Kalumu, the chairman, for the job they have done. Madam Speaker, it is clear that the issue to do with employment in Machakos County somehow is becoming a big elephant in the house and Madam Speaker, my wish is that 2019 we could bring this thing to an end because Madam Speaker, in many occasions it has been either highlighted in the media or in other social means that our employees have been undergoing headcount.

What disturbs me, Madam Speaker, is the fact that up to date despite many processes we have undertaken; it is becoming impossible to solve this problem. As my colleague Hon. Musau has stated, the issue of wage bill is too high. If I can give my opinion on a way maybe which we

can bring this issue to an end, Madam Speaker, is maybe if we can come up with a scheme, a very encouraging scheme to employees within Machakos County maybe those who have reached age which is allowed to retire and come up with a scheme like we encourage them maybe to take that early retirement.

We come up with a package even if it is a three month salary which maybe by the time they are preparing their retirement dues they will be able to be sustained by that amount that we come up with and also maybe we look for people who can train them on how they can spend on their retirement benefits, Madam Speaker. I think being a voluntary scheme, maybe we will be able to get members or employees within our County who might be willing to go that way, Madam Speaker. That is one of my humble request, Madam Speaker, which may be can be taken care of.

On the issue to do with this petition, I was looking at the last page; the first paragraph the last page where there is a recommendation which states that 'in line with this, the committee advises the Kenya County Government Workers Union to restructure their petition by providing information that was requested by the committee then re-introduce the petition as soon as possible and assured that the County Assembly will look into their prayers.'

Madam Speaker, I do not know whether I am getting it right or wrong but I believe when this petition was being filed for it to be admissible to be accepted as a petition, I think Madam Speaker, for the sake of time, I think these are issues that might have been raised at that time and these people would have been advised so that we do not do return work. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mitaa. Can I call the...Hon. Nziva did you want to contribute? Can I call upon the mover of the motion to reply?

Hon. Kalumu: Thank you, Madam Speaker. As you have looked at the document we have put it very clear that the petitioners did not provide documents that were required for us to give reasons to compel the Government of Machakos on the issues of those employees who were stopped from working. This is an indication that if there is any employee who was sent home, that there are ghost workers because these Kenya County Government Workers come to us with a petition and tell us 'our fellow employees have been sent home' yet when we tell them go and bring the documents that shows us and tells us that these were employees of the County, they do not bring.

We cannot just write a report from the blues; we needed documents to confirm that these employees were workers of the County Government and the union failed to provide documents.

Again, Madam Speaker, there is an outright failure which is shown on the document of the County Public Service Board which has failed completely because we are shown by the that Kenya County Government Union that there are employees yet when we call upon the County Public Service Board does not have any document to show.

So, there is also a failure of who employs in Machakos County; we need to go deeper into the issue of who employs and who is given the mandate of employing in Machakos County. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Francis Kalumu. Hon. Members, I now put the question.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point the sitting will stand adjourned to resume tomorrow the 13th Day of March, 2019 at 10 a.m. good afternoon Hon. Members.

The House rose at 4.26 p.m.