

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th August, 2018

The House met at 4.10 p.m.

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

PRAYERS

Hon. Speaker: Good afternoon Hon. Members. I like the energy because you are still very strong even at after 4.00 p.m. so that we can still do the business of the afternoon.

COMMUNICATION FROM THE CHAIR
KAMUKUNJI MEETING

Hon. Members there is a communication I want to make but there are some documents you were to be given to facilitate the communication. Have you been given any folder? We discussed with.... Hon...That is the folder? Let me look at it. Okay, please distribute so that I can communicate.

(Folders were circulated to Hon. Members)

Every Member who is present has a folder?

Hon. Members: Not yet.

Hon. Speaker: Not yet? You do not have. Christopher, Serjeant-at-Arms, there is also this side. Give them quickly or it is a different thing all together?

Hon. Members: They have names.

Hon. Speaker: They have names? I understand, and that is a good way of doing things so read out the names and I hope none of the Members is missing. Do we have any other bundle? So that that Hon. Pauline can find her name on it? I propose Serjeant-at-Arms give the Members who do not have any because the content is the same and then later you provide them with one that has their names.

Hon. Members the folders that you have should not worry you much because you are being given so that you can acquaint yourselves with the contents, and this is under order number 2, communication. I had earlier communicated in the morning that we will have a *kamukunji* today at 4.00 p.m. You notice that it is already 4.00 p.m. and we have business of the afternoon which we have not executed. So what I have done is to ask that the business for the *kamukunji* be

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given to you in that folder so that you can look at it and then take your pen now and indicate on the top that the *kamukunji* is going to be on the 15th day of August, 2018 that is tomorrow at 2:30 p.m. Why we are putting it tomorrow at 2:30 p.m. remember we were supposed to have a meeting with the County Commissioner tomorrow which is not going to be, and again we are adjourning at the end of today's business because you need to sit in the committees to address the issue of the Chief Officers, whose names were forwarded to you to plan your way forward.

So, tomorrow in the morning hours Hon. Members, you will attend to committee matters each in their own committees and then at 2:30 p.m. we have the *kamukunji*. If you look at the agenda of the *kamukunji*, it is important because it touches on your operations; it is about making it possible for you to discharge your duties effectively and so we need to discuss those matters which are outstanding. So, note tomorrow 2:30 p.m. a *kamukunji* and the agenda is as per the docket you have been given.

PAPER LAID

REPORT OF GENERAL OVERSIGHT COMMITTEE ON RECRUITMENT OF COUNTY ADMINISTRATIVE OFFICERS

Hon. Speaker: Hon. Members under this order we have one business as per the appendix by the Hon. Museku.

Hon. Museku: Madam Speaker, I beg to lay the following Paper on the Table of the Assembly today, Tuesday the 14th day of August, 2018; a report on the committee on general oversight on recruitment of County Administrative Officers. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Mr. Clerk, proceed.

NOTICES OF MOTION

REPORT OF GENERAL OVERSIGHT COMMITTEE ON RECRUITMENT OF COUNTY ADMINISTRATIVE OFFICERS

Hon. Speaker: Hon. Members, under this Order, we have two businesses; one is by the Hon. Museku and the other one is by the Hon. Steve Mwanthi. Hon. Museku.

Hon. (Ms.) Mene: Madam Speaker, point of clarification

Hon. Speaker: Point of clarification

Hon. (Ms.) Mene: Madam Speaker, in the morning, I had already given notice of motion on the report on Health Committee. Today is the second day I am doing it. The first time I came, we had no quorum, so we were not able to give the report and today I gave notice of motion again. I can see in the afternoon we have other business. So, I am just wondering, you have not given communication of whether we should continue on the report or it should be done on another day.

Hon. Speaker: Hon. Members, thank you, Hon. Pauline. You notice that in the morning the business of the report the County Assembly Service Board took the better part of morning session and so the business that was balloted for morning automatically will have to go back to the House Business Committee for balloting because the business that is to be transacted this

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afternoon is as per earlier balloting by the House Business Committee. So, at this particular point you can still take that direction but automatically that is what it means because you cannot pull the business of the morning to the afternoon, it will have to go back to the house business committee. Notice of Motion. Thank you. Hon. Museku.

Hon. Museku:

Madam Speaker that aware that section 58 (1) and 59 of the County Governments Act 2012, establishes the County Public Service Board mandated to establish and abolish offices in the County Public Service and advice the County Government on human resource management and development among other functions:

Further, aware that section 51 and 52 of the same act establishes the offices of the Ward Administrators and Village Administrators:

Informed that in June 2018 a statement was sought in this House regarding the status of the recruitment process of Senior Ward and Village Administrators;

Aware that section 39 (2) (b) of the County Governments Act 2012 mandates a committee of the Assembly to invite Members of the County Executive Committee to provide information relating to their responsibilities;

Noting that on 6th and 7th August, 2018, the committee on general oversight held a meeting with the Members of County Public Service Board to discuss matters related to recruitment of administrative officers and employees on contract terms;

Aware that section 66 of the County Governments Act 2012, states that if a public office is to be filled, the county public service board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged;

Madam Speaker, I wish to give notice of the motion that this Hon. House discusses and approves the report of the committee on general oversight on recruitment of county administrative officers.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Hon Steve Mwanthi.

TRAFFIC FINES ANNOUNCED BY THE GOVERNOR

Hon. Mwanthi: Thank you, Madam Speaker.

Hon. Speaker, that aware that the County Executive Committee which consists of the County Governor, Deputy County Governor and the Executive Committee Members is tasked with implementation of county legislation aware that the County Assembly enacted the Machakos County Finance Act 2017 which provides for the fees and charges to be charged within the County;

Further aware that the Act provides for penalty of smoking vehicles at Ksh. 20,000 and littering from a moving vehicle at Ksh. 500;

Noting that article 210(1) of the Constitution of Kenya 2010 provides that no tax or licensing fee maybe imposed, waved or varied except as provided by legislation, aware that the Governor of Machakos County on 6th August, 2018 issued directives that are different from what is contained in the Machakos County Finance Act;

Aware that the County Assembly has not approved these directives as required in article 185(1) aware that County inspectorate and the police have already started harassing innocent citizens;

Aware that the innocent citizens are being forced to pay every illegal penalties and that the assembly has received numerous complaints from the citizens of Machakos;

Hon. Speaker, I wish to give notice of motion that the Assembly resolves as follows:

- 1) That the fines contained in the directives issued by the Governor of Machakos are illegal in as far as they contradict the Constitution of Kenya and other legislation by County and National governments.
- 2) That the fine of Ksh. 150,000 to be paid by owners of vehicles remitting smoke is illegal as per the Machakos County Finance Act 2017 and the penalty for such an offence is Ksh. 20,000 as provided in that Act. That the fine of 50,000 to be paid by a vehicle causing obstruction is illegal as per sections 53(10) and 67 of Traffic Act and that the penalty for such an offence is Ksh. 3,000 and Ksh. 10,000 for abstraction by picking or dropping passengers at a designated areas and for failure to remove vehicle at the scene of accident respectively as provided in the Act, that enforcement officers at the County and National level to cooperate and enforce the Constitution of Kenya and any other legislation at County and National level.

Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Steve Mwanthi.

MOTION

Hon. Speaker: Hon. Members, under this order we have three businesses the first is by the Hon. Museku the second one by the Hon. Steve Mwanthi and the third one by hon. Mark Muendo.

REPORT OF GENERAL OVERSIGHT COMMITTEE ON RECRUITMENT OF COUNTY ADMINISTRATIVE OFFICERS

Hon. Museku: Thank you, Madam Speaker.

Madam Speaker, that aware that section 58(1) and 59 of the County Governments Act 2012, establishes the County Public Service Board mandated to establish and abolish offices in the county public service and advice the County Government on human resource management and development among other functions;

Further aware that section 51 and 52 of the same Act establishes the offices of Ward Administrators and Village Administrators;

Informed that in June 2018, a statement was sought in this House regarding the status of recruitment process of Senior Ward and Village Administrators, aware that section 39(2)(b) of the County Governments Act mandates a committee of the Assembly to invite members of the County Executive Committee to provide information relating to their responsibilities;

Noting that on 6th and 7th August, 2018 the committee on general oversight held a meeting with members of county public service board to discuss matters related

to recruitment of administrative officers and employees on contract terms. Aware that, section 66 of the County Governments Act 2012 states that if a Public office is to be filled the County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicant as possible and especially persons who for any reason have been or maybe disadvantaged;

Madam Speaker, I wish to move a motion that this Hon. House discusses and approves the report of the committee on general oversight on recruitment of County Administrative Officers and I request Hon. Steve Mwanthi to second my motion.

Hon. Speaker: Hon. Stephen Mwanthi

Hon. Mwanthi: Thank you, Madam Speaker. I do support that motion. Thank you, Madam Speaker. I do second the motion. Thank you

Hon. Speaker: Thank you, Hon. Steve Mwanthi. Hon. Museku.

Hon. Museku: Madam Speaker, the Machakos County Administrative Structures Act, 2015 is an Act of Machakos County Assembly that was enacted in 2015 pursuant to Part VI of the County Governments Act, 2012. It is aimed at providing for delineation and establishment of village units, providing for powers and responsibilities of County Administrative Officers and co-ordination of County Government service delivery in the fulfillment of the principles of devolution as set out in the Constitution.

The Act was developed to give effect to Article 10(2) among others that provides for principles of governance such as County allocation of revenue and devolution of power, participation of people, equity, non-discrimination and transparency.

Madam Speaker, the public has high expectations in devolution, among Constitutional provisions, that will improve service delivery and accountability. The devolution process has generated tremendous hope and high expectations of how quickly devolved governments will change the lives of ordinary citizens, improve service delivery and reduce corruption. The major challenge is how to achieve citizen expectations for better service delivery, while helping to ensure citizens have a realistic understanding of the constraints and challenges faced by County Governments.

Madam Speaker, the Committee on General Oversight is a committee of all members of the whole House as established by a resolution of the House through a report of Procedure and House Rules on amendments to standing orders tabled in this House in February 2018 and pursuant to Section 14(1)(b), Section 39(2)(b) of the County Governments Act, 2012 and Standing Order 187(4) and (5). The committee aims to ensure effective oversight over the County Executive and is mandated to invite and interrogate members of the County Executive Committee, the County Public Service Board, the County Secretary, among others, to provide information relating to the affairs of the County that need to be addressed by the Assembly in exercise of its mandate. The committee is chaired by the Hon. Speaker.

Madam Speaker, on 5th June, 2018, Hon. Stephen Mwanthi, MCA Ekalakala Ward sought a statement on the status of the recruitment of Senior Ward Administrators and Village Administrator 1. Further, the honorable member sought a statement on what the Machakos County Public Service Board was doing concerning the employees (cleaners) whose contracts

had been extended up to 28th May, 2018. The Statement was committed to the committee on Labor, Public Service and ICT for action but the report has not been tabled to the House.

The County Public Service Board is established pursuant to Section 58 of the County Governments Act, 2012 that states that;

1. The County Public Service Board shall comprise —
 - a) a Chairperson nominated and appointed by the County governor with the approval of the County assembly;
 - b) not less than three but not more than five other members nominated and appointed by the County Governor, with the approval of the County Assembly; and
 - c) a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the County assembly, who shall be the secretary to the board.

2. The appointment of the members of the Board shall be through a competitive process

Section 59 of the Act provides for the functions of the Board that:-

1. The functions of the County Public Service Board shall be, on behalf of the County government, to—
 - a) establish and abolish offices in the County public service;
 - b) appoint persons to hold or act in offices of the County public service including in the Boards of cities and urban areas within the County and to confirm appointments;
 - c) exercise disciplinary control over, and remove, persons holding or acting in those offices as provided for under this Part;
 - d) prepare regular reports for submission to the County assembly on the execution of the functions of the Board;
 - e) promote in the County public service the values and principles referred to in Articles 10 and 232;
 - f) evaluate and report to the County assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the County public service;
 - g) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
 - h) advise the County government on human resource management and development;
 - i) advise County government on implementation and monitoring of the national performance management system in counties;
 - j) Make recommendations to the Salaries and Remuneration Commission, on behalf of the County government, on the remuneration, pensions and gratuities for County public service employees.

Madam Speaker, on 11th July, 2018 a letter Ref. MKSCA/PCS/CMM/GOC/VOL.1/17 addressed to the Acting Chairperson of County Public Service Board members was sent from the office of the Clerk inviting the Board members for a meeting with the committee on General Oversight scheduled on 18th July 2018 at 3.30pm. The letter was received at the County Public Service Board office on 12th July 2018. The aim of the meeting was to discuss the following matters;

- a) The recruitment of Senior Ward Administrators and Village Administrators.
- b) Contracts of County employees which had been extended to 28th May, 2018.
- c) Recruitment of persons to the Machakos County Government band.

The above invitation was done pursuant to County Assemblies Powers and Privileges Act, 2017 that states that; A County Assembly or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, a County Assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the Constitution.

On 13th July 2018 a Notice of meeting the Board to discuss the above issues was written, and signed by Acting Secretary, Onesmus Mutisya (copy of Notice of Meeting attached). On 16th July 2018, a letter Ref. MCG/5/CPSB/MCA/VOL.1/94 from the Board was received in the office of the Clerk seeking to reschedule the meeting between the Board and Committee on General Oversight following pre-planned commitments.

Madam Speaker, on 20th July 2018, a re-invitation of a meeting scheduled on 24th July 2018 was sent from the office of the Clerk via a letter Ref. MKSCA/PCS/CMM/GOC/VOL.1/20. The letter was received in the office of the County Public Service Board on the same day. The Acting Secretary to the Board via a letter dated 20th July 2018, Ref. MCG/5/CPSB/MCA/VOL.1/98 wrote to the office of the Clerk seeking a further rescheduling of the said meeting.

Madam Speaker, on 31st July 2018, a third invitation letter, Ref. MKSCA/PCS/CMM/GOC/VOL.1/21 was sent to the Board inviting its members to a meeting scheduled for 6th August 2018.

Madam Speaker, on 6th August 2018 at 2.30pm a meeting of the General Oversight and the Board was held. However, the meeting was postponed to the following day, 7th August, 2018 due to the absence of the Acting Secretary, Mr. Onesmus Mutisya who was said to have attended a funeral and that most of the critical documents and information, key to the scheduled meeting was at his custody.

On 7th August, 2018 at 2.30pm, the following members of County Public Service Board attended the meeting.

- a. Mrs. Scholastica Mboi – Acting Chairperson
- b. Mrs. Dorothy Nganga
- c. Mr. Philip Mulwa Nzioka
- d. Mr. Muli Kasoa
- e. Mr. Andrew Kituku Metho
- f. Mr. Onesmus Mutisya – Acting Secretary

Madam Speaker, all the Board members were interviewed under oath pursuant to Section 19 (a) of County Assembly Powers and Privileges Act, 2017 that states that; where a County

Assembly or a committee requires that any information be verified or otherwise ascertained by the oral examination of a witness, the County Assembly or the committee may cause such witness to be examined on oath.

Madam Speaker all the above listed six members of the Board except the Acting Secretary, Mr. Onesmus Mutisya informed the committee that, they had been interviewed for the positions in 2013 and vetted by the Assembly before they were appointed. . The committee was informed that the said Acting Secretary was appointed in the position in March 2018 after initially working with the Board as a Principal Administrative officer (Job Group Q), PA to the Chairperson. The appointment and approval of the Board members was done pursuant to Section 58 of the County Governments Act, 2012 that states that;

- (1) The County Public Service Board shall comprise —
 - a) a chairperson nominated and appointed by the County governor with the approval of the County assembly;
 - b) not less than three but not more than five other members nominated and appointed by the County governor, with the approval of the County assembly; and
 - c) a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the County assembly, who shall be the secretary to the board.
- (2) The appointment of the members of the Board shall be through a competitive process.

Madam Speaker, the positions of the Ward and Village administrators are provided for in Sections 51 and 52 of County Governments Act, 2012 that provides that;

- 51(1) there is established for each Ward in a County the office of the Ward administrator
- 3) The Ward administrator shall coordinate, manage and supervise the general administrative functions in the Ward unit, including —
 - a) the development of policies and plans;
 - b) service delivery;
 - c) developmental activities to empower the community; the provision and maintenance of infrastructure and facilities of public services;
 - d) the County public service;
 - e) exercise any functions and powers delegated by the County Public Service Board under section 86; and
 - f) coordination and facilitation of citizen participation in the development of policies and plans and delivery of services.

Madam Speaker, Section 52 of the same Act provides for position of Village Administrator that;

- (1) There is established the office of village administrator for each village unit established in a County.
- (3) A village administrator shall coordinate, manage and supervise the general administrative functions in the village including-
 - (a) pursuant to paragraph 14 of Part II of the Fourth Schedule to the Constitution-
 - i. ensuring and coordinating the participation of the village unit in governance; and
 - ii. assisting the village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level; and
 - (b) the exercise of any functions and powers delegated by the County Public Service Board under section 86.

Madam Speaker, the Board stated that it was in the process of recruiting Senior Ward and Village Administrators. The Board reported that in June 2018, it received requisition from the user Department, namely, the Department of Decentralized Units and County Administration a letter of intent to recruit 40 Ward Administrators and 40 Deputy Ward Administrators .However, the Board was unable to produce to the committee a comprehensive list of the qualified candidates.

The committee inquired whether an advertisement was done for the said positions. In reply the Board stated that a letter for internal advertisement was done but the Board was unable to produce the letter to the committee. The Board went on to say that the qualified candidates were interviewed and names forwarded to Chief Officers of respective Departments and are waiting appointment letters. The Board members revealed that the candidates for the stated vacancies had been sourced internally from the pool of the already existing employees in various County executive Departments and that the positions had not been advertised openly to the public.

The Board members were also questioned on the recruitment of village Administrator3 officers and the committee was informed that the process of interviewing a total of 229 was ongoing. However, the user Departments sent amendments requesting for provision of six (6) more villages to make a total of 235 as provided in the Schedule of Machakos County Administrative Structures Act, 2015. Further, the committee noted that the villages provided in the Act are actually sub-locations and there is need to create other smaller units for better public participation and service delivery.

Madam Speaker, the committee was concerned on who among the interviewed Village Administrator 3 officers will be posted to which village given that advertisement to these positions was not done openly and applicants were not sourced from respective villages. A question on what will happen if it turns out that some villages are not represented arose since recruitment was done on the basis of internal advertisements and some villages may not be represented in County executive employment. There is a possibility of some of the recruits being posted to villages which they are not conversant with the needs and operations. It is also possible for some villages to lack applicants.

The committee observed from the Board that there was only internal advertisement in the executive and no open advertisement as required by law hence the recruitment process was not competitive. The process was therefore in contravention of Section 66 of the County Governments Act, 2012 that states that; If a public office is to be filled, the County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged.

Madam Speaker, the committee sought to know why the Board allowed an internal sourcing of candidates when the law required them to competitively recruit the administrative officers; in reply the Board stated that it was the ballooning wage bill of the County that prompted the move. However the Board did not avail a staff audit report to support the argument. The reply was therefore unsatisfactory to the committee since it is obvious that upon transfer of an employee to a new office it creates a vacancy which should immediately be filled to ensure continuity of service, hence no net advantage in wage bill reduction.

In determining the wage Bill of the County, staff audit report is bound to be a primary document for reference. A staff audit report is also a pre-requisite in detecting overstaffing or

understaffing. The committee was surprised to hear that the Board had not finalized Staff audit report to guide in controlling wage bill alongside recruitment in an exercise undertaken in 2016. It came clear to the committee that recruitment process in the County is haphazard and is not controlled by valid data.

Madam Speaker, the committee further sought to know if the Board had a staff establishment policy to guide recruitment and also budgeting. In reply it was reported that the County does not have a valid staff establishment. Employees are recruited to fit in a staff establishment but not to create the staff establishment from the existing employees as it appears to be happening in the County.

Staff establishment is a fundamental human resource tool. It is a policy that provides guidance to budget holders and all those involved in the resourcing and recruitment of staff. It enables all budget holders to ensure that all changes to the funded establishment and recruitment activities are aligned to workforce needs whilst ensuring that workforce resources are managed robustly and consistently.

Madam Speaker, the committee inquired what the Board has done regarding the contracts of employees extended to 28th May, 2018. In reply the Board stated that it is aware of 1,060 contractual employees comprising of cleaners, watchmen, attendants etc. whose contracts expired in May 31st 2018.

Further, the committee was notified that the contract had been extended for further six (6) months with effect from June 1, 2018 and all of them have been given letters of fresh contracts. The extension, according to the Board, is to allow for competitive applications. In addition the committee was informed that the said employees have been included in the payroll. The Board was not able to convince the committee on the rationale of extending the contracts yet they reported of ballooning wage bill of the County.

Madam Speaker, upon inquiry on the extent to which the above stated recruitment process has been done, the Board was categorical that it is NOT aware of the said recruitment neither is it aware of any of the purported band members being in the payroll. However the Board stated that it is aware of volunteers who are working with the County Government in that capacity.

Madam Speaker, the committee was informed that the Board is currently in the process of interviewing and recruiting officers to fill positions of 8 Sub-County Administrators and 8 Deputy Sub-County Administrators. On inquiring how the process initiated, the committee was notified that the positions were advertised internally within the executive.

Madam Speaker, the committee was concerned that since 2014, the County Government of Machakos has been reluctant to appoint substantive officers in various portfolios instead it has made it a habit to keep officers in an acting capacity for even as long as five years. In particular, the committee pointed out the positions of the Acting Chairperson and Acting Secretary to the Board which have been in interchanging acting capacity since 2014 and 2015 respectively.

The Acting Chairperson of the Board in reply stated that it is the prerogative of H.E. the Governor to appoint officers and forward them for vetting to the Assembly. In addition the Acting Chair said that the Board is unable to forward names of its members who are in acting capacity to H.E. the Governor for appointment. It was therefore clear that the Board has never made any move to remind H.E. the Governor of his responsibilities and the dangers and implications of running the County with offices that are not legally instituted.

Madam Speaker, it is very unfortunate to note that a key office like the County Public Service Board that is supposed to oversee the entire human resource of the County has up to date operated without a substantive Chairperson and a substantive Secretary. The same menace is

being witnessed in the various County Departments were we have countless Chief Officers and CECs holding offices and transacting critical business of the County in an acting capacity.

Madam Speaker, from the general discussion the committee noted the following:-

1. That the process of recruitment of County Administrative Officers namely Sub-County Administrators, Deputy Sub-County Administrators, Senior Ward Administrators, and Village Administrators commenced and is still in process.
2. That the County Public Service Board advertised for the above positions internally and did not advertise openly for the entire members of public of Machakos County and the Country in general to know and apply as required by law.
3. That the recruitment of the candidates for the stated positions was predetermined since the Board did not competitively advertise openly to give the public a chance to apply.
4. That since 2016, the Board has never come up with the finale staff audit report and also staff establishment for the various County Departments.
5. That the County Public Service Board is NOT in control of human resource affairs of the public service it is overseeing. The board was requesting for assistance from the County assembly.
6. That there is need to address the ballooning wage bill upon receipt of the audit report and staff establishment report from the Board.
7. That the contract of 1060 employees whose contract term expired in 28th May 2018 has been extended for further six months and letters of fresh contract given. However the Board did not avail a list of names for those employees.
8. The Board stated that it is not aware of persons recruited to Machakos County Government band neither is it aware of any of the purported persons being in the payroll. However, the same Board stated that it is aware of volunteers working in the band.
9. The County Public Service Board does not have a substantive Chairperson and Substantive Secretary. The current Chairperson and Secretary are in acting capacity.

Madam Speaker, based on the irregularities noted by the committee regarding the ongoing recruitment process, the committee recommends as follows;

1. That the ongoing interviews and any further action relating to the interviews for Senior Ward Administrators, Village Administrator 1 (Deputy Senior Ward Administrators) Village Administrator3, Sub-County Administrators and Deputy Sub-County Administrators be suspended forthwith since they were advertised internally denying the entire public a chance to apply.
2. Recruitment for the above positions should be advertised afresh and done competitively pursuant to Article 232 of the Constitution and Section 66 of the County Governments Act, 2012.
3. That within fourteen days (14) the County Public Service Board should avail to the Assembly the following documents
 - i. Comprehensive staff audit report, Staff establishment report and payroll.
 - ii. List of names of the forty (40) Senior Ward Administrators who qualified for record purpose of the Assembly.
 - iii. List of names of the forty (40) Village Administrators 1 (Deputy Senior Ward Administrators) who qualified.
4. The County Public Service Board as established in Section 57 of County Governments Act, 2012 needs to exercise its mandate in an independent manner as a body corporate that can sue and be sued.

5. The County Public Service Board should avail regular reports to the County Assembly as provided in Section 59 (1)(d) of County Governments Act, 2012 that states that; The functions of the County Public Service Board shall be, on behalf of the County government, to prepare regular reports for submission to the County Assembly on the execution of the functions of the Board;
6. That H.E the Governor should appoint a substantive Chairperson and substantive Secretary to the County Public Service Board and forward the names to the Assembly for approval pursuant to Section 58 (a) and (c) of the County Governments Act, 2012 that states that;
County Public Service Board shall comprise —
 - (a) A chairperson nominated and appointed by the County governor with the approval of the County assembly;
 - (c) A certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the County assembly, who shall be the secretary to the board.

Madam Speaker, devolution is expected to make governance more responsive and accountable and so improve service delivery. As pertains developing participatory practices at the local levels current developments of devolution leaves a lot to be desired. There is very little evidence that it has resulted in policies that are more responsive to the poor or indeed, to the citizens generally. In Machakos County there is need to enforce participation of people in governance which is a core element in Kenya's strategy to accelerate growth and address long-standing inequalities in economic opportunities, investment, and service delivery.

Madam Speaker, it is therefore my privilege and pleasure to table before this Honorable House a report of Committee on General Oversight on recruitment process of Senior Ward Administrators and Village Administrators. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku.

(Question proposed)

Hon. Members, the motion is open for debate. Hon. Mitaa.

Hon. Mitaa: Thank you, Madam Speaker. I wish to thank Hon. Museku for the good work he has done of reading us the report. Madam Speaker, I think this report has really captured what we discussed in the committee of the whole house and it is my request if we can just pass it as it is for the sake of time, Madam Speaker. Thank you.

Hon. Speaker: Thank you, Hon. Mitaa. Hon. Cosmas Masesi.

Hon. Masesi: Thank you, Madam Speaker. Madam Speaker, I stand to appreciate the work done by the clerks. This is the correct preparations we went through and agreed upon on the committee of general oversight. My concern is we need to agree on what the assembly will be doing if the resolutions of this house are not adhered to. That is something, Madam Speaker we need to discuss as a house. There must be a way out if our resolutions are not adhered to by the Executive.

We have to find a way that will make the Executive follow our resolutions because I want to believe we must we play our role of oversight and if we will be passing resolutions in this house which should be just posed as paperwork by the Executive, a lot needs to be done, Madam Speaker. Thank you.

Hon. Speaker: Thank you, Hon. Masesi. On the issue of implementation of resolutions of this house Hon. Members, you may wish to appreciate or to know that there is a law that requires you to call or to summon the particular CEC in charge of implementing whatever motion that you pass and they are supposed to come here and tell you on the progress of the implementation and if they have not done it, then you can take a decision on their performance. That is what you need to know. Hon Katumo.

Hon. Katumo: I stand just to support this report and of course echo and congratulate the members of this committee of the whole house for bearing and of course taking through the members of county service board and especially trying to get out the mandate and what they do.

I really agree with the observations and the committee recommendations and in particular Madam Speaker, the first committee recommendation that of course calls upon the service board to suspend or stop forthwith, the advertisement because they did it internally and of course I had a lot of interest in this administrators because of course going through the Constitution especially the bill of rights and in particular the area which deals with persons with disabilities, I think this county has not adhered to the law especially the Constitution.

If you look at section 54(2), it states that the state shall ensure the progress implementation of the principle that at least 5 per cent of the members of public in elective and appointment bodies are persons with disabilities. And if you look if they are doing the county itself in the past for the past five or so years has not been adhering to this particular section of the constitution and if we allow them to do it internally as they wish, then I am very sure I have been losing the battle for the ward of PWDs and therefore I really very much madam speaker Hon. Members, this our members back in the wards and constituencies and therefore we need them to come on board and work devolution came for all of us and therefore if leave them we exclude them it would not be very nice and therefore I support and I support that as they do this advertisement going forward it should also include persons with disabilities are highly encouraged to apply. Thank you, Madam Speaker.

Hon. Speaker: Hon Katumo I believe in the report you saw the section that is cited Section 66 which clearly stipulates that the advertisement a very wide advertisement is intended to reach as wide section of the population as possible including those who may be disadvantaged, alright? So your concern is well placed. Hon members, hon. mark Muendo.

Hon. Muendo: Thank you Madam Speaker. Let me support this motion. Indeed Madam Speaker, devolution is about the people; devolution is about all the activities which go where we normally come from as members of this assembly. Madam Speaker, I support this report. For one, when an advert is done internally, most of the people will not apply and most of the people will not even know and that is against the law. Let me say hon. Members when you are calling village and sub county administrators, those are the key players in devolution. Other counties have done that; they have recruited but it is not done the way Machakos County has done it.

Hon. Members, it is supposed to be advertised and when we go to village hon. Members, you cannot have a sub county administrator or a ward administrator especially ward

administrator or village administrator coming from Kibauni to come to Kinanie to be a village administrator. The word village is the key; this person must be from that area, that village, must be known to the people and also will be coordinating the people in the village. When you advertise internally, how will Mutuku from Kinanie village know there was an advert? How will you select the people especially on the village level? How will you select those people to be placed in the village administration? It is not possible Madam Speaker.

Therefore I support this report and I request the Executive when they are especially recruiting, they advertise and we also tell our people to apply because in this case when you advertise internally, maybe you promote or you get somebody working there you give the job, he is from Kisii then he comes to Muthesya or he comes to Kibauni to be the village administrator; people will not accept that. It is also important to have those people in place coming from the same area Hon. Speaker.

When the projects are being done these are the people who normally check whether the project is well done. This is where we are coming from whereby contractors used to be given projects, they do not even work on the projects but they get the paper work and they are paid. These village administrators will raise alarm and say that road has not been done.

Hon. Speaker, the importance of these people should be actually taken very serious by this house and we should also get involved when the advertisement is done. Let us see we get the right people from the right village. Thank you, Madam Speaker.

Hon. Speaker: Thank you hon. Majority. Hon. Kisini.

Hon. Kisini: I do support the report totally because it has touched most of the grievances which always we cry for. Number one I want to say this board has failed to control the ballooning wage bill as it has said and this is under the expense of development. They have gone over the ceiling and I think most of the money they are using to pay the workers is the one meant for development so if this board was good enough or strong enough, it could have cited that case.

Number two it has also failed to protect its staff. The reason I am saying so, recently the union had petitioned a letter here; most of the staff were not paid their salaries for four months, they are going on hunger. If this board was careful enough, it could have stepped up and see to it that most of those staff are only being victimized for nothing; they did not do anything wrong because it is only a meeting they did not attend.

Number four, to me they have no teeth to stop or advice the Executive not to over employ; they have no teeth. They cannot stop the Executive over employing and lastly, the board itself is not united. Recently about four months when some of them were just being hiked out of their vehicles most of them have gone to court and so forth. So a board which is not united cannot do anything, so to me this board has failed and I think this report has addressed most of the grievances which are making our county to fail. Thank you Madam Speaker.

Hon. Speaker: Thank you, Hon. Kisini. Point of order, Hon. Mutiso.

Hon. P.J. Mutiso: Thank you, Madam Speaker. I am standing on a point of order on Standing Order 51(1) whereby Madam Speaker I wish to move an amendment on committee recommendation, (1) to read as follows: That the ongoing interviews and any further action relating to the interviews for senior ward administrators, village administrators I, deputy senior ward administrator, village administrator III, sub county administrators and deputy sub county administrators be stopped, not suspended, forthwith since they were advertised

internally denying the entire public chance to apply. And on (iii), to read as list of names of the forty (40) village's administrators; (i) deputy senior ward administrators who qualified for record purposes of the assembly. Thank you, Madam Speaker.

Hon. Speaker: You are seconding?

Hon. PJ Mutiso: I call upon Hon. Mueni to second my motion on amendment.

Hon. Speaker: Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. I stand to second the amendment and remind the members that we are here because of devolution. If it was not for devolution nobody would be in this house so stand firm.

Hon. Speaker: Hon. Members, I do not even see it as an amendment myself. The HANSARD is clear; when members met here on Monday, was it on Monday? You discussed and it should be just a typo error or an error on the part of the clerks the same errors that you notice on reports which are normally prepared.

So the issue here is stoppage as opposed to suspension and the other issue is for the committee record and we discussed that. I remember a member, was it Kamulu? When he was saying that we do not need that report now but the committee agreed that you need the reports for record of the committee isn't it? So anyone who is in doubt can go back to the Hansard and they will find that. So what it is a correction of the typo errors or an error of omission on the part of the clerks' secretariat than you? Proceed Hon. Members, Hon. Betty.

Hon. (Ms.) B. Nzioki: Thank you, Madam Speaker. I stand to support the report of the whole house and first and foremost I need to seek guidance when you go to page six you find that Madam Speaker, the acting chairperson has been acting since 2016 up to date Madam Speaker, it seems that most of these people have been in acting capacity. My question is and my concern why should they stay in an acting capacity since 2016 up to date?

Madam Speaker, I seek a guidance on that, secondly Madam Speaker, when we are speaking or else when we are talking about devolution these posts, they are very important to our people whom we represent and this is the matter of the whole county but it should not be a matter of personal interests. Madam Speaker, I stand to support the report and we want to ask the executive to be fair and square for the people of Machakos County as a whole and follow the right procedure of advertising the positions and vet or else give the names in a proper manner. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Betty. Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I do not have any problem with the report but there are some issues which need to be clear. Madam Speaker, item number one that I want us to be clear on is that on the day we were seated here bullet 6.5...

Hon. Speaker: Is it on recommendations or observations?

Hon. Ndawa: This recruitment of persons to Machakos County Government band.

Hon. Speaker: What is the heading?

Hon. Ndawa: Recruitment of persons, page 11.

Hon. Speaker: 11.

Hon. Ndawa: Yes.

Hon. Speaker: Alright, 6.6?

Hon. Ndawa: Yes, Madam Speaker, when we were here the board made it clear that it was not aware of any officers employed to take part in the band but Madam Speaker, during the official opening of the show we saw the band entertaining the people who attended the show or the show goes and Madam Speaker, according to my own observation most of the those who take part in that band are county employees.

I have more than 10 who come from my area; they are employees who have been in the service for long time. So the issue of band is not a new employment, it is those who are in the service taking part in the band. Madam Speaker, the other issue that I would like to get clarification the time the board members...

Hon. Speaker: Hon. Member, maybe on that point, 6.5 the report Hon. Ndawa is clear that the board said that it is not aware of any employment of a band and none of them of the alleged band are on the payroll but the board said that it is aware that there are volunteers who are working with the County Government in that capacity. The only thing that the board did not state is whether there are employees already of the County Government in the executive or whether there are people who come from outside.

The way it looks it is like there are people who come from outside of the employment and mark you there is nothing wrong even the Assembly has a band comprising of the staff and some of the members here isn't it? Alright, so what was not stated by the board is whether these volunteers are from within the service or from outside. So, do not bring in the issue unless you are able to clarify from them and note they are not here now you take it as it is.

Hon. Ndawa: Well advised Madam Speaker, the other issue that I want to get clarification, at the time we were interrogating these officers they informed the committee of the whole house that the process of recruiting the ward administrators was at advanced stage. They made it very clear that they had already finalized with that and they had forwarded the names to the department for issuance of letters.

The other bit of village administrators and the sub counties, I am not talking about that but the ward administrators they made it very clear that they were through and they had forwarded the names to be issued with letters so, Madam Speaker---

Hon. Speaker: That is captured in the report also.

Hon. Ndawa: Yes it is captured so my concern is this, if we say we stop this and these people have these letters it means now we have an engagement contract. The County

Government of Machakos has an engagement contract with these newly employed employees because they have documents that they can produce...

Hon. Speaker: Hon. Ndawa do you have any of the contracts you can table before the house?

Hon. Ndawa: I do not have but we have information and I happened to talk to some of those who have been employed.

Hon. Speaker: The difficult part is that when you refer to a document you are supposed to table it to the house otherwise it becomes hearsay and the house does not take hearsay.

Hon. Ndawa: Thank you, Madam Speaker, but I think it is good to also inform the committee or the house that already the letters have been issued. It is good the house to be aware.

Hon. Speaker: Hon. Ndawa just a moment; Hon. Museku?

Hon. Museku: Hon. Ndawa, when the committee appeared before us it said it was asked specifically whether letters---

Hon. Speaker: It is not a committee that appeared before us Hon. Museku.

Hon. Museku: The board. When the board appeared it was asked specifically whether the letters had been issued to the employees and they said they had forwarded a list of the shortlisted people to the specific department and therefore the committee was not aware of any contracts which had been entered between the County Government of Machakos and any individual. More so, the recruitment was being done from existing employees who already have contracts anyway. Thank you.

Hon. Speaker: Hon. Ndawa had you finished? You proceed on point of information which you have been informed. Carry on

Hon. Ndawa: Thank you, Madam Speaker. It is good that the Hon. Member, Museku is informing me so the concern I have Madam Speaker, at what stage can instructions be given by the house. Is it at the committee stage or it is at the plenary. The time we were giving instructions we were at committee stage so at what stage are we supposed to give directions. At committee stage or at the plenary

Hon. Speaker: Point of information from Hon. Steve Mwathi

Hon. Mwanthi: Thank you, Madam Speaker. I just wanted to inform the member that by that time it was a suspension. We just suspended the exercise and now we just stopped. Thank you, Madam Speaker.

Hon. Speaker: Hon. Ndawa, you were sighted to the privileges act that the committee when it summons witnesses it sits in the capacity of a high court. Do you remember that? And it can direct that a certain situation be arrested just to stop before a final decision is made and that

is what the committee did. Just like you go to the high court and you get a temporary injunction. Doesn't it happen? And then a final decision is given. There is a very big difference between suspension and stoppage. Alright

Hon. Ndawa: Let me continue, but on the same before I leave that point Madam Speaker, as we were talking to that committee the issue of recruitment had moved from this department, the service board to the department. So the instruction was given to the service board which not the one was supposed to issue the letters. So if there was no communication and the letters were issued Madam Speaker, we may end up getting...

Hon. Speaker: Point of information?

Hon. Mwanthi Hon. Mwanthi: Yes, Madam Speaker.

Hon. Ndawa: Allow me to continue

(Laughter)

Hon. Mitaa: Madam Speaker, I think the member needs to be informed that it is an obvious case that service board is the one that issues appointment letters to employees. Thank you, Madam Speaker.

Hon. Speaker: Hon. Mitaa, thank you. Hon. Ndawa, please proceed to wind up.

Hon. Ndawa: Thank you and I would request this Hon. House and members kindly, when I stand kindly give me ample time to represent the people who send me to this House Madam Speaker.

Hon. Speaker: That is the spirit of the house but you know the members, the house actually is also---

Hon. Ndawa: I am not opposing the report, that is a fact; so I do not know why these hon, members are anxious.

Hon. Speaker: Hon. Ndawa, they are not anxious they are just informing you.

Hon. Ndawa: Thank you Madam Speaker.

Hon. Speaker: When they stand up and you hear them, when you hear they do not have information also inform them.

Hon. Ndawa: Thank you, Madam Speaker.

Hon. Speaker: So proceed

Hon. Ndawa: The other question that I wish to ask Madam Speaker, because I heard several members saying that some wards may miss representation because maybe they did not

apply. I am asking is there a requirement in the law which says a certain officer must work in his own ward because according to my own understanding if a ward administrator is employed from my ward, it means now that ward administrator may usurp the duties that I am also supposed to be doing and in future it can be very dangerous for the elected leaders Madam Speaker. So I am requesting if these people are being employed let them be taken elsewhere not from their own wards.

(Laughter)

The other issue Madam Speaker, in the report let me check where; you said the ward administrators will be in charge of policies. Policies are supposed to be made in the assembly not in the wards. So that is usurping the powers and the duties of the elected leaders so Madam Speaker, I would request this Hon. House to ensure if these people are employed let them know their work. They should not do what the elected leaders are supposed to do. The other issue so that I can---

Hon. Speaker: On that one Hon. Ndawa, you like proverbs.

Hon. Ndawa: Yes.

Hon. Speaker: There is the proverb of the community we come from that you do not milk the cow until it has given birth.

Hon. Ndawa: Yes.

Hon. Speaker: So now are you milking the cow---

(Laughter)

Hon. Ndawa: No, I am trying to avoid a situation where Hon. Kiteng'u is removed from his position by a ward administrator who is given resources by the County Government or the Executive, the moment the administrator is seeing...

Hon. Speaker: Kindly be informed by Hon. Mueni.

(Laughter)

Hon. (Ms.) Mueni: Thank you, Madam Speaker. *Mheshimiwa* whether you like it or not, the ward development people who are being employed now they are the ones who will take your seats whether you like it or not. Thank you, Madam Speaker.

(Laughter)

Hon. Speaker: Hon. Ndawa, I do not know whether Hon. Mueni has informed you adequately but I just want to add something the ward administrators and the village administrators and the sub county administrators they are indeed the representatives of the Governor at different stages. The Governor sits in the County Office, and then there is a sub

county administrator, right? Then there is a ward administrator, then there is a village administrator and there is supposed to be even another administrator lower than the village administrator and we know very well the work of the executive is to implement.

So, these are the people who are to oversee the implementation of the policies, the laws and the plans for the executive on the ground and the work of you members is representation, legislation and oversight so why do you say they are coming to take your jobs?

Hon. Ndawa: Madam Speaker, it is evident that even in our families if you let your wife to be going home carrying bread and you come without anything the kids will know that it is only the mother who brings something. The father does not bring anything and that notion will make the kids to love the mother more than the father---

Hon. Speaker: That is a good analogy Hon. Ndawa, I will still need to make it further and am...it is not you alone it is the members here. When we talk of oversight the implementation and Hon. Mark Muendo has been talking of how Makueni performs. That when he is going to implement now in his other capacities some works there the first group he is encountering is the village council and that village council is working closely with the area member of County Assembly so you are being seeing there and when you come to the ward level on the ward administrator the same thing you are being seeing there only that you are not touching the money but you are working with the public to identify what they need how will they not see that you are the father who is bringing the bread. Thank you.

Hon. Ndawa: Thank you, Madam Speaker for advising us but I would continue insisting that this is the body that makes policies let us make a policy which says the ward administrator should work in different wards not from their original wards to avoid these future problems. Madam Speaker, we better be proactive than to be reactive. And this is an advise I am giving I am not fearing I am going home but Madam Speaker, let us make sure we put a bell on this lion before it come to us.

Hon. Speaker: Hon. Ndawa, would you say the same of the village administrator and also because if I heard the members concern mostly was on the village administrators. They were asking...Hon. Ndawa just resume your seat briefly. If you look at the act that was passed here by this Assembly, the first Assembly it has come up with 235 units which they are calling villages and remember we agreed actually the villages are sub locations which are too large for a village.

The question members were asking is with the internal recruitment there is a high chance that those villages in quotes because they are sub locations some of them may not have somebody who is working at the moment in the county executive. So what will happen if it turns out that a number of them do not have somebody working in the County Executive because it means there will be no possibility of somebody being interviewed and appointed as a village administrator for that sub location?

So, their concern was mostly on the village administrators if I heard them right not so much of the ward administrator whom you seem to be afraid of Hon. Ndawa for reasons that we do not understand so please continue and wind up your submissions Hon. Ndawa.

Hon. Ndawa: So the other concern Madam Speaker, is about the independence of the public service board. My question is, and that is in page 14, there is that issue of independence. So Madam Speaker, I am asking if the County Assembly itself is requesting or is pursuing the

service board be independent and the Assembly itself is trying to interfere with the activities going on in the service board how will it be independent honestly Madam Speaker, because I think it may not be possible if we ourselves as the Assembly we are interfering with their work are we assured....

Hon. Muendo: Point of information.

Hon. Speaker: Hon. Muendo, kindly... Hon. Member, Hon. Ndawa, the fact that you are independent does not mean that you act in a rogue manner. If you are given that powers like the Assembly you must exercise it within the law, okay? So that even the judges take the courts the judge has all those powers but there is a word which they use---

(A cellphone rung)

Is that here? Is it here? Hon... Who is the Hon. Member? Serjeant-at-Arms, can you do your work?

(Laughter)

Hon. Mbevi, please give that gadget to the Serjeant-at-Arms, only that it should be off. So what I was saying Hon. Ndawa is that you want a body that is independent and will function only guided by the law and obeying the law and not on whims. Whims is when you just wake up and decide you are going to do whatever you want. If you look at Standing Order 1, the Speaker is given a lot of powers to make decisions but these decisions are not open ended.

They are supposed to be guided by the constitution by the other law statutes county assemblies, county governments act and then the practices. That are positive not negative. So independence does not mean open ended exercise of power which is not premised on any law.

Hon. Ndawa: Thank you. The last concern, Madam Speaker, is on committee recommendation number six. The report says His Excellency the Governor should appoint a substantive chairperson, substantive secretary and County Public Service Board and forwards the names to the Assembly for approval.

So, Madam Speaker, my question is when the board was before this House they made it clear that most of the members were vetted by the first assembly and since that time they have been in office. Suppose the Governor re-appoints, let me use the word re-appoints the same officers will they be subjected to approval by the assembly. That is the concern I want to know because we saw in the parliament.

Hon. Mulatya: Point of information.

Hon. Speaker: Point of what?

Hon. Mulatya: Information.

Hon. Speaker: So much information, who is giving...Hon. Mulatya?

Hon. Mulatya: Thank you, Madam Speaker. I would like to inform the member Madam Speaker, I think when they were taking office that time they were supposed to be vetted. When their time is up and they are re-appointed they are supposed to go through the same process.

Hon. Museku: Point of information Madam Speaker, before he seats?

Hon. Speaker: Point of information, another information?

Hon. Museku: Yes, which is very relevant this time round. Madam Speaker, I would like to inform the member that if he reads the law which has been cited there section 58 (Ac) of the County Governments Act which states that the County Public Service Board shall comprise a chair person nominated and appointed by the County Government with the approval of the Assembly. A certified public secretary of good position standing nominated and appointed by the Governor with the approval of the County Assembly which means that the Governor has to present the name, nominate the name of a chair person before the Assembly.

Nominate the name of a secretary before the assembly and then the Assembly vets and approves. If the Governor feels for example that the current acting chairperson, he wants them to become a chairperson of the board they will have to be presented before this house for vetting because when they were vetted before they were vetted as members of the board but not as chair to the board. Thank you.

Hon. Speaker: Thank you, Hon. Museku. Hon. Ndawa, you are well informed?

Hon. Ndawa: Thank you, for the information. The reason why I was asking that question I have not said that they should not be vetted or they should not be approved but according to how the courts operate you will see a judge citing another case which was determined in another court elsewhere now in this case in the national parliament some members of cabinet were re-appointed and they were not subjected to fresh...

Hon. Member: Point of information.

Hon. Speaker: Hon. Members I think we need to stick to the point of discussion. Hon. Ndawa, I may need to ask you now just to end there. You have had your time, in fact too much, although there is a lot of information. And I think why this is coming up is because members would also ask you were seated in the same position and this was a committee of the house and all these matters really they ought to have come at the committee stage otherwise why were you having committee meetings right?

The HANSARD is available also to show who said what at that particular point and so that you do not appear to be retracting from statements which you made when you were in committee stage because it will amount to a disorderly conduct. Alright, so can we have other members contribute? Hon. Kalumu.

Hon. Kalumu: Thank you, Madam Speaker. I would like to start by saying the goals or the objectives of devolution were to take development to the lowest point. Was to give the local mwanachi power to think about what he wants. Was the power to govern themselves and the procedure of appointing these village administrators and sub county administrators and ward administrators was set by the law; the County Governments Act.

The Appointment should be done for the interests of everyone not for certain people who already have employment. If the chances are not given to those who don't have jobs then when will they have jobs and they can even go to court and say they were not given a chance to apply as ward administrators and sub County Administrators. The reason why they are appointing internally is subject to question and that question can be answered in the right procedure which has been followed by other counties which have followed the law and appointed substantive ward administrators sub County administrators and village administrators.

So if they appointed internally, we may ask a genuine question as why were they being requested to apply internally and the reason which was given according to the report did not give a genuine reason as to why they used that criteria. Madam Speaker, if that is allowed to be subjected to internal applications, then the jobs or performance of those who will get in the offices through the internal application will be subject to manipulation because it is not subjected to competitive application of the jobs.

Have they given a reason as to why you can take somebody, imagine a village where everybody knows everyone in that village, he even knows where a drift needs to be constructed. When you bring a new person from another village from another sub county, will he be able to know all the problems of that village? That is a question.

Hon. Speaker: Hon. Kalumu I referred you to, let me just shed some light. Machakos County Government Administrative Structures Act 2015; that is an Act of this House, it has provided for the qualification; section 9 and 10 that the person should be a citizen residing in the respective area of appointment.

Hon. Kalumu: Thank you Madam Speaker for the information i didn't have that one. Let me go to the board; as it is, the board is not independent and it is not making independent decisions concerning our county public employment because they were here trying to give us an audit which did not materialize to the final stage. All these problems we are being subjected to today is because the board lacks the independence the law gave to them.

Another thing i would like to point out is the contracts of cleaners and watchmen; these are the lowest workers of the county and some of them do not even receive their salaries. Others are given letters and they are not even admitted in those jobs. Others are requested to leave their jobs verbally without letters...

Hon. Speaker: Hon. Kalumu, do we have a petition from those members? In other words, is that matter before the House for deliberation? Just proceed with the matter that is before the House for deliberation without dwelling much on matters which are not at the moment before the House.

Hon. Kalumu: Madam Speaker, I just wanted to point out about this contract which is ending then it is being given again; when will they get letters of appointment and stop being downplayed every time their term ends. Thank you Madam Speaker.

Hon. Speaker: Okay. Thank you, Hon. Kalumu. Hon. Johana.

Hon. Munyao: Thank you, Madam Speaker. I support the report and especially the need to have a staff audit report presented before the House. Such a report is bound to make the House advice the Executive or even make an informed decision as they execute their mandate of

offering oversight in whatever the Executive is doing. The same report i am sure would be able to point out because when we went round especially in the Health and Emergency services committee, we were able to witness cases of staff shortages in our health facilities whereas in the other end we are talking of a ballooning wage bill. So, it will make us be able to study and find out whether there could be some departments which are over staffers whereas others are understaffed and call for some balance.

At the same time, we would also find ourselves in a situation where we are cutting a tree branch while seated on it. If you try it, you will be sure when the branch falls, you will fall with it. The people we are saying we advertise externally for them to compete for the same positions, they are our people; they are residents of Machakos County. At the same time, the people who are already in service assuming the 70-30 percent rule has been followed would also find there are residents of Machakos County.

The reason given by the board was the reason of the ballooning wage bill. So we can make a decision, I want to address the implementation part of this report; make a decision we stop and advertise externally and going by the definition of a village, that is the smallest administrative unit; in Machakos county there are close to 1000, and an administrator at job group 8 going by the SRC salary scales is a gross of 33,000 which would total to over 360 million per year; I just want to give the implication so that we are not only pointing out but we can be in a position---

Hon. Speaker: Point of information by Hon. Steve Mwanthi.

Hon. Mwanthi: Thank you Madam Speaker. I think the Hon. Member should know that the village councils as per the Act has requested for allowances they are not being paid, so i don't know how he has grouped them at Job Group H.

Hon. Munyao: Yes, those are members of the council who are entitled to allowances but the village administrator is entitled to a salary, not members of the council. So that is my point of argument, so that we are able to inform and advise in the right; we reason out and engage the Executive so that we are part of ballooning the wage bill further or advising on how we can scale down the ballooning wage bill.

Hon. Speaker: Point of information by Hon. Mark Muendo

Hon. Muendo: Thank you, Madam Speaker. Let me inform the Member that these posts we are talking about are in the constitution and further, the controller of budget without having those units, there is a problem of receiving money because those are the people who are actually recommended on the projects on the ground; and that is where devolution is anchored.

Therefore when we are talking about salary, the ballooning of wage bill could not be the number of the people, it could be contributed by other factors; people in the wrong job groups, ghost workers and others. So, this ballooning wage bill, unless we get that audit report, it will tell us what is happening. Thank you Madam Speaker.

Hon. Speaker: Hon. Johanna, please proceed and wind up.

Hon. Munyao: In fact, the information, my argument was not that I oppose. I came from there and I even gave numbers; I am not opposed to it. I was only saying we be informed so that

we can argue from a point of information and be able to advise the Executive when the wage bill continues to expand. I said we will be part of it; we can be able to advise otherwise when we have such information. Thank you.

Hon. Speaker: I call upon the mover to reply.

Hon. Museku: Thank you, Madam Speaker, thank you Hon, Members for your active debate on this issue. There are some issues which I want to touch on briefly which have arisen and which are very critical as we go ahead and make this decision. The first one is the need to advertise; it is important to get these jobs advertised so that we can give everybody an equal opportunity of employment.

As we go ahead and vote on this it is important to remind you what it feels like for somebody who is at home; qualified and they are unemployed and for them to hear that opportunities of employment have arisen and people who are already working are the ones who are being given the first opportunity for those positions. Those people become even more desperate. That is the reason why we are saying; let it be advertised for all to apply.

Remember the issue of ballooning wage does not in any way affect or is not affected by these positions. These are positions which have been provided by the constitution and currently they are vacant. So filling of these positions cannot be the reason for the ballooning wage bill. We must find out through the staff audit why we are having a ballooning wage bill and fix that; and not connect that to filling of vacant positions which are supposed to be filled constitutionally. We need to have an effective Service Board which can be able to perform its duties independently. I believe this can only happen if the Board is fully constituted with a substantive chairperson and a substantive secretary. They will be able to make decisions as a board without any interference.

The current form of interference we are seeing is because some of the members are on acting capacity and do not want to jeopardize their acting capacity and that way they become compromised. We need to have the staff audit to be able to address the critical issues we have brought out in this Assembly on the ballooning wage bill and find out why we are having all those many positions which are not provided for by the law.

So, Hon. Members it is my humble request to all of you to support this report so that we can be able to get a better way forward on the matters concerning the CPSB and the positions of the senior ward administrators and the village administrators. Thank you, God bless.

Hon. Speaker: Thank you, Hon. Museku.

(Question put and agreed to)

Hon. Members, for purposes of implementation of the resolutions of the House, please be guided by Standing Order 181 and I referred to it earlier so that implementation of your resolution you need to be following it up with the respective Executive Committee Member and that is in fulfillment with Article 183(3) of the Constitution. We have the other business by Hon. Steve Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. Looking at the time and the mood of the Members I wish to defer my motion to a future date.

Hon. Speaker: Under what Standing Order?

Hon. Mwanthi: The Clerk is trying to assist Madam Speaker.

Hon. Speaker: I am seeing Standing Order 48 , you gave a notice of motion and it is a business under the notice of motion you gave and you are the mover of that motion, you wish to give notice of withdrawing it and it be raised another day?

Hon. Mwanthi: Yes, Madam Speaker.

Hon. Speaker: Hon. Members, it is still his property; it is not the property of the House and he is free to do with his property as he wishes. It is so ordered. Hon. Steve Mwanthi you have deferred your motion.

Hon. Mwanthi: Thank you, Madam Speaker.

Hon. Speaker: Hon. Members, we still have a further business and I am made to understand there is one by Hon Mark Muendo or it has changed? I can see Hon. Ndawa rising. The position has not changed; alright.

PROCEDURAL MOTION

ADJOURNEMENT OF HOUSE FOR CIDP AND CASA GAMES

Hon. Muendo: Thank you, Madam Speaker.

I want to move motion on adjournment. Hon. Speaker, that aware that Standing Order 24 of the County Assembly Standing Orders provides that regular sessions of the Assembly shall commence on the second Tuesday of February and terminate on the first Thursday of December;

Aware that the Assembly shall continue to be in session and may adjourn for such number of days as it may determine in its calendar;

Acknowledging that the Assembly received names of nominees for approval for appointment as County Secretary and Chief Officers;

Aware that the names were committed to various sectoral committees and further aware that Committees need to meet and plan on how they will conduct vetting of the nominees;

Noting that County Assemblies Sports Association (CASA) games scheduled from 26th August to 2nd September, 2018 coincided with Assembly trainings which are funded by Agile Harmonized Assistance for Devolved Institutions (AHADI) and aware that the Assembly needs to take advantage of these trainings; Further aware that the Assembly was scheduled to go on long recess from 30th August, 2018 to 17th September, 2018 and aware that Standing Order 25(4) provides that the Assembly may by resolution alter its Calendar or adjournment date;

Hon. Speaker, I wish to move the motion that pursuant to Standing Order 25(4), this House resolves to change the adjournment date of the Assembly for long recess from 30th August, 2018 to 15th August, 2018 and to resume on sittings as per the Assembly Calendar on 18th September, 2018.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Muendo. Do you have a seconder to your motion?

Hon. Muendo: Thank you, Madam Speaker. Hon. Masesi to second me.

Hon. Masesi: Thank you, Madam Speaker. I want to support fully on matters were Members need a lot of time to engage in these CASE games and also in attaining more skills . I fully support the adjournment of the House on for the long recess from 15th August, 2018 and to resume on sittings as per the Assembly Calendar on 18th September, 2018. Thank you, Madam Speaker.

Hon. Speaker: A point of correction by Hon Mutiso

Hon. P.J. Mutiso: Madam Speaker, I think it is not a long recess; it is a short recess.

Hon. Speaker: It is a short recess not a long recess; the only difference in the explanation of the motion is that there are two weeks that have come earlier. The short recess has come earlier by two weeks because of the events that are explained in the motion.

Hon. Muendo: I stand guided but this is what clerks gave us.

Hon. Speaker: That must be another error. Today it's like many of the reports have many errors.

Hon. Muendo: Fire people, employ people, Hon. Speaker.

Hon. Speaker: So it is corrected on the record; it is a short recess. Do we have any member who wants to make a short comment on that request? None. Hon. Members, you do not vote on a procedural motion and because of the views expressed by the two Members that have submitted on your behalf and also feeling the mood of the House, the adjournment of the House is done at this moment for the reasons that are stated in the motion by the Majority Leader, Mark Muendo and supported by the Members and the House will adjourn---

Hon. Masesi: Madam Speaker, there is a phone I gave you which was left by a Hon Member.

Hon. Speaker: Hon. Cosmos Masesi, you are very much out of order.

(Laughter)

I think that is the reason you need so much training and we are adjourning so that you can go for training.

(Laughter)

Hon. Wambua: Madam Speaker, point of observation before you adjourn please.

Hon. Speaker: Where is it coming from, Hon. Musau.

Hon. Wambua: Yes, Madam Speaker, this flag has been upside for a long time; I think it is time it is put in the right position, Madam Speaker.

Hon. Speaker: The what?

Hon. Wambua: The National flag has been upside down, Madam Speaker.

Hon. Speaker: Okay. I think there is a culture amongst us Kenyans which is very interesting; we are not patriotic and I noted this in a forum of lawyers. When we started singing the National Anthem, we did not know, we only knew one stanza and we are supposed to sing three. That reminds me that we need to be singing the National Anthem and so we need to give a lot of respect to the emblem that is the flag and thank you very much, Hon. Musau.

The secretariat, you need to take care of some of these things; it means so much. You put your flag upside down; all of you are upside down. That is what it means; it is a very serious thing.

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point the sitting of the House will adjourn to 18th September, 2018 at 10.00 a.m. and Members remember even with the adjournment, you are still very much at work because you have a lot of committee work. So have a good break and there are two phones here; the first one is as a result of an offence committed in the House.

Please take care of your phones that they don't go ringing when we are in session. The other one was left here presumably by a Member, so it is a lost and found property. If any of you lost such a phone and you hear your colleague asking, please see Mr. Muange; and this one you return to the Hon. Member. Thank you, Hon. Members.

The House rose at 6.07 p.m.