

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 15th November, 2022

The House met at 11.59 a.m.

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

PRAYERS

PAPER LAID

NOMINATION AND BALANCING MEMBERS IN VARIOUS COMMITTEES

Hon. Speaker: May I call upon the Majority Leader to proceed and lay the paper.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker.
Hon. Speaker, I wish to lay the following Paper---

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Point of order, Madam Speaker.

Hon. Speaker: Yes, Deputy Speaker.

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker.

I am standing on Standing Order 27(2) which provides that the Speaker shall interrupt business at 12.30 p.m. for the morning sitting;

Aware that Standing Order 27(3) provides that the House may resolve to extend its sitting time;

Aware that Standing Order 27(4) requires a motion to extend sitting time to be moved at least 30 minutes before the time appointed of adjournment;

Hon. Speaker I beg to move the motion that the House resolves to extend its sitting time until the business at hand deliberated.

I call upon Hon. Dee to second.

Hon. Mutisya Kivuva (Nominated, WDM-K): I second.

(Question proposed)

(Question put and agreed to)

(The House resumed business as per the Order Paper)

Hon. Speaker: Proceed, Majority Leader.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. Hon. Speaker, I wish to lay the following Paper on the Table of the Assembly today, 15th November, 2022; the Report of the Committee on Selection on nomination of Members to Water and Irrigation Committee and Decentralized units and County Administration Committee and balancing of Members in committees.

(The Paper was laid on the Table)

NOTICES OF MOTIONS
REPORT OF NOMINATION AND BALANCING
MEMBERS IN VARIOUS COMMITTEES

Hon. Speaker: May I request Hon. Majority Leader to proceed.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. Hon. Speaker, that aware that the House approved establishment of two new sectoral committees following a request to amend the second schedule of Standing Orders of the County Assembly by a Member and subsequent tabling of a report and recommendations by Procedure and Rules Committee on 8th November, 2022; Aware that Committee on Selection nominated Members to serve in these two new Committees and also undertook balancing of Members in Committees pursuant to Standing Order 152(2); Further aware that Standing Order 155(1) provides that the Committee on Selection shall within seven days upon nomination of members to serve in any Committee of the House, present to the House for approval; Hon. Speaker, I wish to give notice of motion that pursuant to the provisions of the Standing Order 155, this House approves the appointment of various Members to the respective Committees as specified in the Schedule as annexed in the Order Paper.

Thank you, Madam Speaker.

REQUEST FOR EXTENSION OF TIME TO COMPILE REPORT
ON MICROFINANCING ACTIVITIES IN THE COUNTY

Hon. Speaker: May I call Upon Hon. Peter Kilonzo to proceed and give the notice of motion.

Hon. Peter Kilonzo (Mbiuni, UDA): Thank you.

Hon. Speaker, that aware that, Article 195 of the Constitution provides that the County Assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information;

Further aware that, Article 183(3) of the Constitution of Kenya, Section 39 (2) (b) of the County Governments Act 2012 and County Assembly of Machakos Standing Order 41, a statement on institutions masquerading as microfinance institutions by loaning the residents monies and later auctioning their property which makes the residents of Machakos not safe was sought in the House on 18th October, 202;

Aware that the statement was committed to the Justice and Legal Affairs Committee;

Acknowledging that in executing its mandate, the Committee is doing investigations, hearing evidences from the victims;

Aware that the committee requested for information from the Acting County Secretary on a number of issues relating to licenses, agreements, and the regulatory framework established for the operation of the microfinance institutions;

Further aware that the committee has asked for documents on operations of the business from the microfinance institutions; aware that the County Secretary and the microfinance are yet to submit the said documents;

Hon. Speaker, I wish to give notice of motion that the House resolves to grant the Justice and Legal Affairs Committee three weeks to complete the matter and report to report on 6th December, 2022.

Thank you, Madam Speaker.

Hon. Speaker: Thank you. May I call upon Hon. Nicholas Nzioka Majority Leader to proceed.

PROPOSED REMOVAL FROM OFFICE OF
THE CHAIRPERSON, SECRETARY AND TWO MEMBERS OF
THE COUNTY PUBLIC SERVICE BOARD OF MACHAKOS

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker.

Hon. Speaker, THAT aware that Article 10(2) of the Constitution of Kenya, 2010 provides for the National values and principles of governance being

- a. Patriotism, national unity, sharing, devolution of power, the rule of law, democracy and participation of the people.
- b. Human dignity, equity, social justice, inclusiveness, equality, human rights, non- discrimination and protection of the marginalized.
- c. Good governance, integrity, transparency and accountability.
- d. Sustainable development

Hon. Speaker, aware that Article 73 of the Constitution of Kenya stipulates that;

1) Authority assigned to a State officer—

(a) Is a public trust to be exercised in a manner that—

- i. Is consistent with the purposes and objects of this Constitution;
- ii. Demonstrates respect for the people;
- iii. Brings honor to the nation and dignity to the office; and
- iv. Promotes public confidence in the integrity of the office

- (b) Vests in the State officer the responsibility to serve the people, rather than the power to rule them.
- (2) The guiding principles of leadership and integrity include—
 - a) Selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
 - b) Objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
 - c) Selfless service based solely on the public interest, demonstrated by—
 - a. Honesty in the execution of public duties; and
 - b. The declaration of any personal interest that may conflict with public duties; (d) Accountability to the public for decisions and actions; and
 - d) Discipline and commitment in service to the people.

Hon. Speaker, Appreciating that Article 232 of the Constitution of Kenya, 2010 provides for the values and principles of public service as –

- a. High standards of professionalism ethics
- b. Efficient, effective and economic use of resources
- c. Responsive, prompt, effective, impartial and equitable provision of services
- d. Involvement of the people in the process of policy making
- e. Accountability for administrative acts
- f. Transparency and provisions to the public of timely, accurate information
- g. Subject to paragraphs (h) and (i) , fair competition and merit as the basis of appointments and promotions
- h. Representation of Kenya’s diverse communities
- i. Affording adequate and equal opportunities for appointment, training and advancement, at levels of the public service of-
 - i. Men and women
 - ii. The members of all ethnic groups and
 - iii. Persons with disabilities.

Hon. Speaker, aware that Article 235(1) of the Constitution of Kenya stipulates that a county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- (a) Establishing and abolishing offices in its public service;
- (b) Appointing persons to hold or act in those offices, and confirming appointments; and
- (c) Exercising disciplinary control over and removing persons holding or acting in those offices.

Hon. Speaker, acknowledging that Section 55 of the County Governments Act, 2012, provides for the objectives of County Public Service being;

- a) Provide for evaluation and reporting on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the county public service;

- b) Provide for the organization, staffing and functioning of the county public service in ways that ensure efficient, quality and productive services for the people of the county;
- c) Provide for institutions, systems and mechanisms for human resource utilization and development in a manner that best enhances service delivery by county public service institutions;
- d) Provide a framework of uniform norms and standards to be applied in all counties in respect of—
 - i. Establishment and abolition of offices in the county public service;
 - ii. Appointment of persons to hold or act in those offices;
 - iii. Confirming appointments; or
 - iv. Exercising disciplinary control over and removal of persons holding or acting in those offices
- e) Provide for the promotion of the values and principles set out in Articles 10 and 232 of the Constitution in the county public service;
- f) Provide for human resource management and career development practices;
- g) Address staff shortages and barriers to staff mobility between counties
- h) Provide for standards to promote ethical conduct and professionalism in county public service;
- i) Provide for the establishment of County Public Service Boards; and
- j) Make further provisions relating to appeals in respect of county governments' public service.

Hon. Speaker, further aware that Section 57 of the County Governments Act, 2012 establishes the County Public Service Board;

Aware that Section 58(5) of the same Act states that:

The members of the Board may only be removed from office—

- (a) On grounds set out for the removal of members of a constitutional commission under Article 251(1) of the Constitution; and
- (b) By a vote of not less than seventy five percent of all the members of the county assembly.

Hon. Speaker, Acknowledging that Article 251 (1) of the Constitution of Kenya, 2010 provides that;

- (1) A member of a commission (other than an ex officio member), or the holder of an independent office, may be removed from office only for—
 - (a) Serious violation of this Constitution or any other law, including a contravention of Chapter six;
 - (b) Gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
 - (c) Physical or mental incapacity to perform the functions of office;
 - (d) Incompetence; or
 - (e) Bankruptcy.

Hon. Speaker, cognizant that, Mr. George Kioko Luka, the Chairperson of the Machakos County Public Service Board has committed the offences;

- (a) That Mr. George Kioko Luka on 13th July, 2021 presided over the inclusion of four (4) officers into the payroll by purporting to reinstate them. The said people were never employees of the County Government of Machakos. This is gross misconduct in the performance of the Chairperson's functions.
- (b) That on 26th April, 2021, Mr. George Kioko Luka shared a list of his preferred officers for recruitment to all Board members in anticipation of an advertisement that was due to run in a newspaper. The advertisement was in May, 2021 and to close on 23rd May, 2021. The advertisement was for 21 positions, 20 medical officers and one General Surgeon. After the closure of the exercise he personally and deceitfully added four medical officers and one surgeon making a total of 26. This violates Article 73(2)(c)(i) of the Constitution on honesty in execution of public duties
- (c) That Mr. George Kioko Luka has let the board operate without a substantive Accounting Officer and went into alliance with the Secretary who has usurped the powers of both the Chief Executive Officer of the Secretariat and the Accounting Officer to serve his interest at the expense of professionalism expected in the institution. This is a demonstration of incompetence on his part.
- (d) That Mr. George Kioko Luka has constituted an enterprise in the name of recruitment and selection that is normally used for illegal dealings and irregular recruitment. It is simply a criminal enterprise that no law provides for and a serious violation of the law.
- (e) That on 26th February, 2021 Mr. George Kioko Luka un-procedurally purported to allocate an official vehicle to the Vice Chairman, KBX 810T for the single purpose of facilitating the hiring of her son, Samson Sereka as a driver. Consequently he was hired on a three year contract at Job Group D. The Officer was not qualified for the Job. This violates Article 73(2)(a) of the Constitution on selection on the basis of personal integrity, competence and suitability.
- (f) The Chairperson facilitated the hiring of Nine Officers among them son of the Vice Chairperson, Ms. Cecelia Mbinya Sereka being Boniface Mutunkei Sereka of ID 29961233 through abuse of delegated authority on 6th August, 2020. The Officers were employed on contract effective 4th January, 2021 to September, 2022. The son was employed at entry level of Job Group K, without the necessary qualifications. On the 5th October, 2021, in a meeting convened and Chaired by the Vice Chairperson, the mother to Boniface Mutunkei, the terms of the nine officers were illegally changed to permanent and pensionable terms. This is without regard to the fact that the officers were all being employed in a constitutional office whose term was to end in August, 2022. This is abuse of office and violation of National Values and principles of governance as provided for in Article 10 of the Constitution of Kenya, 2010.
- (g) The Chairperson has failed to address the County's huge wage bill which is currently at 55.4 per cent instead of 35 per cent according to regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. Instead he has been presiding over the payment of huge amounts of money in terms of illegal extraneous/ other allowances to his relatives among Regina Wakio Kioko and the Vice Chairperson's relatives as well as others working for different considerations. For instance most employees of the County Public Service Board are on extraneous

- allowances despite the fact that they report to work at 8.00 a.m. and leave at 5.00 p.m. A look at the list of thirteen among them his daughter, includes cleaners who are put on extraneous allowances for just what doing what they were employed to do. This is violation of National Values and principles of governance as provided for in Article 10 of the Constitution of Kenya, 2010.
- (h) That Mr. George Kioko Luka being the Chairperson of the County Public Service Board has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied to in the County Assembly. This is according to Section 59(1)(f) of the County Governments Act, 2012. This is violation of the Constitution.

- Hon. Speaker, aware that, Mr. Onesmus Muia Mutisya, the Secretary of the Machakos County Public Service Board has committed the following offences:
- (a) That Mr. Onesmus Muia Mutisya on 27th April, 2020 wrote to the Chief Officer, Department of Public Service and Quality Management to unlawfully occasion illegal payments of extraneous allowances to twenty four (24) officers working in the County Public Service Board including himself. This is a serious violation on Chapter six of the Constitution of Kenya.
- (b) That Mr. Onesmus Muia Mutisya illegally/unlawfully listed himself as a beneficiary of Extraneous allowances of Ksh. 25,000 per month knowing well that Board Members are not entitled to the allowance and without knowledge of other Board Members. This contravenes Article 232(1)(a) and (b) on the values and principles of public services being high standards of professional ethics, efficient, effective and economic use of resources.
- (c) That Mr. Onesmus Muia Mutisya has listed one Mr. Joseph Wambua Deputy Secretary/CEO for extraneous allowances of Ksh. 25,000 knowing very well that such a position does not exist in the Board and therefore that would be a violation of law. This is misuse of public funds, violation of the Constitution and incompetence.
- (d) That Mr. Onesmus Muia Mutisya was involved in the awarding of extraneous allowances to thirteen (13) officers including the Daughter of the Board's Chairperson, Ms. Regina Wakio Kioko and dishonestly concealing the surname to hide identity. This is violation of Chapter six of the Constitution and misuse of public funds.
- (e) That Mr. Onesmus Muia Mutisya wrote the Chief Officer, Department of Public Service and Quality Management on the 13th July, 2020 to deceitfully purport to reinstate to the payroll four officers claiming that there was a court order to that effect but where none existed. The said officers had never been in the County's payroll and the same had been communicated by the CECM Public Service. This contravenes the provisions of Articles 10 and 232 of the Constitution of Kenya
- (f) That in the month of August , 2021, Mr. Onesmus Muia Mutisya was accused of sexual harassment/intimidation by two officers through letters to the County Secretary and the County Executive Committee Member for Public Service and Quality Management, which letters were copied to all Board Members through their individual emails together with evidence inform of electronic messages. The Officers were Hellen Musau and Caroline Nduku Nzioka. This contravenes the provisions of

- Articles 232(1)(a) and 236 of the Constitution of Kenya on the values and principles of public service. This is also gross misconduct.
- (g) That by a letter dated 12th May, 2021 Ms. Caroline Nduku Nzioka was promoted to the position of Human Resource Management Assistant 1 with effect from 1st January 2021 but her later withheld by Mr. Onesmus Muia Mutisya during which time he was demanding for sexual favors from her. When the same did not succeed and she reported the matter, he went ahead and purported to withdraw the same via letter dated 22nd September, 2021 without the due process. This is a serious violation of Article 236(b) of the Constitution of Kenya.
 - (h) That Mr. Onesmus Muia Mutisya unprofessionally uses intimidation and incompetently handles official matters in a way that would jeopardize the operations of the Board. He threatens Members of the Board through advocates to sue when board members are on a different opinion on a matter under consideration. This shows clearly he is incompetent and abuses the Office of the Secretary, County Public Service Board.
 - (i) That Mr. Onesmus Muia Mutisya being the Secretary of the County Public Service Board has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied to in the County Assembly. This is according to Section 59(1)(f) of the County Governments Act, 2012. This is violation of the Constitution.

Hon. Speaker, further aware that, Ms. Cecilia Mbinya Sereka, a member of the Machakos County Public Service Board has committed the following offences:

- (a) That Ms. Cecilia Mbinya Sereka did not declare conflict of interest during a sitting of 6th August, 2020 in the Recruitment and Selection Committee where her son (Mr. Boniface Mutunkei Sereka) was an applicant and was later recruited. This violates Article 73(2) (c) (ii) of the Constitution on declaration of personal interest that may conflict with public duties.
- (b) That on 5th October 2021 Ms. Cecilia Mbinya Sereka convened a Committee meeting under career progression and the terms of employment of Mr. Boniface Mutunkei Sereka was changed from contract to permanent and pensionable. This also violates Article 73(2)(c)(ii) of the Constitution on declaration of personal interest that may conflict with public duties.
- (c) That on 17th March, 2021 under minute no. 293/03/2021, the recruitment and selection Committee deliberated on the matter of appointment of a driver. This was based on misrepresentation that the Vice Chairperson was a PWD (person living with disability). The committee recommended a personal driver to serve with the official car allocated to her by the Chairman, KBX 810T. The deceitful act was made to benefit her and facilitate the hiring of yet another of her sons namely Samson Sereka on Job group D. This also violates Article 73(2)(c)(ii) of the Constitution on declaration of personal interest that may conflict with public duties.
- (d) The above appointment was meant to benefit the Vice Chairperson through appointment of her son. The said son was not qualified for the position nor was recruitment competitively done for the benefit of the said officer. It is also worth noting that the members of the County Public Service Board have not been provided with official vehicles and therefore Motor Vehicle registration number KBX 810T

- was simply towed to the premises to facilitate the appointment of son to the Vice Chairperson. This is serious violation of Article 10 and Chapter 6 of the Constitution of Kenya and gross misconduct
- (e) That on 5th October, 2021 Ms. Cecilia Mbinya Sereka convened a meeting under career progression and gave extraneous allowances to a group of employees among them the daughter of the Chairperson of CPSB one Regina Wakio Kioko, Deputy Sub County Administrator under job group P Ksh. 25,000 backdated to 1st July, 2021. This had been declined earlier in December, 2020. This violates Article 73(2)(b) of the Constitution on objectivity and impartiality in decision making.
 - (f) That Ms. Cecilia Mbinya Sereka being the Vice Chairperson of the County Public Service Board has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied to in the County Assembly. This is according to Section 59(1)(f) of the County Governments Act, 2012. This is violation of the Constitution.

Hon. Speaker, further aware that, Ms. Stella Ndinda Muthoka, a member of the Machakos County Public Service Board has committed the following offences:

- (a) That Ms. Stella Ndinda Muthoka was the Chairperson of the recruitment and selection committee which during a meeting of 26th February 2021 approved appointment of a driver for the Vice Chairperson, Ms. Cecilia Mbinya Sereka, one Samson Sereka on Job group D. The position had not been advertised. Samson Sereka is the son to Ms. Cecilia Mbinya Sereka hence conflict of interest. This violates Article 73(2) (c) (ii) of the Constitution on declaration of personal interest that may conflict with public duties.
- (b) That on 17th March, 2021, chaired by Ms. Stella Ndinda Muthoka under minute no. 293/03/2021, the recruitment and selection Committee deliberated on the matter of appointment of a driver. This was based on misrepresentation that the Vice Chairperson was a person living with disability (PWD). The committee recommended a personal driver to serve with the official car allocated to her by the Chairman, KBX 810T. No certificate from Council of Persons living with disability was presented to warrant for appointment of a personal driver. This is a violation of Article 10, Chapter 6 and Article 232 of the Constitution.
- (c) That Ms. Stella Ndinda Muthoka has been involved in undertakings of the Machakos County Public Service Board where there was abuse of office, misappropriation of public funds through;
 - a. Approval of extraneous allowances for specific officers yet the officers working on normal office hours and perform the duties listed in their appointment letters.
 - b. Recruitment of officers without following the right criteria.
 - c. Promotion of Officers without following the provisions of the existing laws and circulars.
 - d. Appointment of Mr. Joseph Wambua as the Deputy Chief Executive Officer of the County Public Service Board yet such office does not exist in the Constitution and the County Governments Act. This is misuse of public funds, gross misconduct and violation of Chapter six of the Constitution.

- e. Reinstating four officers claiming that there was a court order to that effect but none existed. The said officers had never been in the County's payroll and the CECM Public Service had communicated the same. This contravenes the provisions of Articles 10 and 232 of the Constitution of Kenya
- f. Recruitment of five extra officers against an advertisement of 21 positions, twenty Medical Officers and one General Surgeon Kioko. The advertisement closed on 23rd May, 2021. After the closure of the exercise four medical officers and one surgeon were added to the list making a total of 26. This violates Article 73(2)(c)(i) of the Constitution on honesty in execution of public duties.
- g. Has never reported to the County Assembly through a report on the extent to which the values and principles referred to in article 10 and 232 are complied in the County Assembly; this is violation of the Constitution.

Hon. Speaker, pursuant to Article 251(1) of the Constitution of Kenya 2012 and Section 58(5) of the County Governments Act 2012, I wish to give notice of a motion that this House recommends removal of---

(Hon. Nzioka consulted with the Clerk at the Table)

Thank you. I am well-guided. I will take that again.

Hon. Speaker, pursuant to Article 251(1) of the Constitution of Kenya 2010 and Section 58(5) of the County Governments Act 2012, I wish to give notice of a motion that; this House resolves to recommend removal from office by the Governor of the following:

1. Mr. George Kioko Luka, Chairperson, Machakos County Public Service Board on the grounds of serious violation of the Constitution, gross misconduct and incompetence.
2. Mr. Onesmus Muia Mutisya, Secretary, Machakos County Public Service Board on the grounds of serious violation of the Constitution, gross misconduct and incompetence.
3. Ms. Cecilia Mbinya Sereka, Member, Machakos County Public Service Board on the grounds of serious violation of the Constitution and gross misconduct
4. Ms. Stella Nduku Muthoka, Member, Machakos County Public Service Board on the grounds of serious violation of the Constitution and gross misconduct.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you Majority Leader.

STATEMENT

BUSINESS FOR THE HOUSE FOR 15TH AND 16TH NOVEMBER, 2022

Hon. Speaker: May I call upon the Majority Leader, to make the statement.

Hon. Nicholas Nzioka (Machakos, WDM-K): Thank you, Madam Speaker. Hon. Speaker, the House Business Committee met on Monday, 14th November, 2022 to prioritize business for the House as forwarded by Committees and Hon. Members pursuant to the provisions of the Standing Order 151(6)(d) . The Committee balloted as follows:

Tuesday, 15th November, 2022

Morning at 10.00 a.m.

- (a) Motion THAT pursuant to the provisions of the Standing Order 155, this House approves the appointment of various Members to the respective Committees as specified in the Schedule.
- (b) Motion that the House resolves to grant the Justice and Legal Affairs Committee three weeks to complete the matter on statement on micro-finance institutions and to report on 6th December, 2022

Afternoon at 2.30 p.m.

- (a) Motion by Leader of Majority that; this House resolves to recommend removal from office by the Governor of the following;
 1. Mr. George Kioko Luka, the Chairperson, Machakos County Public Service Board from the position of Chairperson on the grounds of serious violation of the Constitution, gross misconduct and incompetence.
 2. Mr. Onesmus Muia Mutisya. The Secretary, Machakos County Public Service Board from the position of Secretary on the grounds of serious violation of the Constitution, gross misconduct and incompetence.
 3. Ms. Cecilia Mbinya Sereka, a Member of Machakos County Public Service Board from the position of Board Member on the grounds of serious violation of the Constitution and gross misconduct.
 4. Ms. Stella Nduku Muthoka, a Member of Machakos County Public Service Board from the position of a Board Member on the grounds of serious violation of the Constitution and gross misconduct.

Wednesday, 16th November, 2022

Morning at 10.00 a.m.

- (a) Motion that the Department of Health equips Matuu Level 4 Hospital with necessary equipment
- (b) Motion that the House resolves to grant the Procedure and House rules Committee three weeks to complete the matter proposed amendments to Standing orders to report on 6th December, 2022

Afternoon at 2.30 p.m.

- (a) Statement on service delivery in Kangundo Level 4 Hospital
- (b) Motion THAT pursuant to the Standing Order No. 189B, this Hon. House approves Delegated County Legislation committee report on consideration of the Public Finance Management (Machakos County Government Executive staff car and mortgage fund) Regulations, 2022.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you Majority Leader. Next order.

MOTIONS
REPORT OF NOMINATION AND BALANCING
MEMBERS IN VARIOUS COMMITTEES

Hon. Speaker: May i call upon the Majority Leader, to proceed and move the motion.

Hon. Nicholas Nzioka (Machakos, WDM-K): Thank you, Madam Speaker.

Hon. Speaker, that aware that the House approved establishment of two new sectoral committees following a request to amend the Second Schedule of Standing Orders of the County Assembly by a Member and subsequent tabling of a report and recommendations by Procedure and Rules Committee on 8th November, 2022;

Aware that Committee on Selection nominated Members to serve in these two new Committees and also undertook balancing of Members in Committees pursuant to Standing Order 152(2);

Further aware that Standing Order 155(1) provides that the Committee on Selection shall within seven days upon nomination of members to serve in any Committee of the House, present to the House for approval;

Hon. Speaker, I wish to move the motion THAT pursuant to the provisions of Standing Order 155, this House approves the appointment of various Members to the respective Committees as specified in the Schedule.

Decentralized Units and County Administration Committee

1. Hon. Farhiya Abdi (WIPER)
2. Hon. Jackson Ndaka (WIPER)
3. Hon. Raphael Lucky Nzau (WIPER)
4. Hon. Dee Kivuva (WIPER)
5. Hon. Stephen Mwanthi (WIPER)
6. Hon. Brian Kisila (MCCP)
7. Hon. Douglas Musyoka (MCCP)
8. Hon. Joseph Mulinge (MCCP)
9. Hon. Loyd Mutua (MCCP)
10. Hon. Julius Munywoki (UDA)
11. Hon. Mary Kituku (UDA)
12. Hon. Justus Mutuku (PTP)
13. Hon. Mathias Muasya (IND)

Water and Irrigation Committee

1. Hon. Irene Mulu (WIPER)
2. Hon. Jeremiah Kaloi (WIPER)
3. Hon. Helen Ndeti (WIPER)
4. Hon. Winfred Mutua (WIPER)
5. Hon. Daniel Muindi (WIPER)
6. Hon. Rosina Kanini (WIPER)
7. Hon. Margaret Ndalana (MCCP)
8. Hon. Mercy Njagi (MCCP)

9. Hon. Brian Kisila (MCCP)
10. Hon. Carol Mutuku (MCCP)
11. Hon. Mary Kituku (UDA)
12. Hon. Charles Mbuva (GDDP)
13. Hon. Paul Wambua (PTP)

Environment and Natural Resources Committee

1. Hon. Judas Ndawa

Committee on Implementation

1. Hon. Mercy Njagi

Health and Emergency Services Committee

1. Hon. Jackson Ndaka

Madam Speaker, before I call a seconder, I would like to thank the Procedure and Rules Committee for considering my request to amend the Standing Orders and the whole House for agreeing with these recommendations. Again it is based on the background that we had to make sure we are taking care of each other. I wish also, of course, Procedure and Rules was under your chairmanship so Hon. Speaker, thank you very much. I also want to thank the Hon. Members on the Selection Committee for diligently working around this issue so that we have inclusivity and unity in our House.

I would like to recognize Hon. Judas Ndawa, Hon. Catherine Kyee, Hon. Catherine Muia, Hon. Stephen Mwanthi, Hon. Charles Mbuva, Hon. Felix Ngui, Hon. Margaret Ndalana, Hon. Douglas Musyoka, Hon. Paul Mwanzia, Hon. Philip Ndolo, Hon. Justus Mutuku and Hon. Phoebe Koki. Of course, under my chairmanship, we struggled a bit but finally I think we are ready with this committee. With your permission, Hon. Speaker, I would like to call the Minority Leader to second.

Hon. Speaker: Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCP) seconded.

Hon. Speaker:

(Question proposed)

I now invite Members to debate the motion. Hon. Members, the floor is yours; can I have people contributing to this debate. Mheshimiwa Ndawa.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you, Madam Speaker, for this opportunity. I will start by saying that I am supporting the report and secondly I want to take this opportunity to congratulate the Committee on Selection for coming up with a very clear report. Madam, Speaker, looking at the Membership of the two committees, the Selection Committee was very

keen to ensure that all the Members in this County Assembly have enough committees especially the sectoral committees which meet normally meet.

Sometimes a Member is entitled to sit in four committees per week and we had Members who had few. So when we were coming up with this report, we ensured that those who had less committees we ensured that their names appeared in these committees. There below you can see on Committee on Environment my name is appearing there and on Committee on Implementation Hon. Mercy Njagi is appearing there. Health and Emergency Services committee Hon. Ndaka is also appearing there.

Let Members not be confused by this committee whether it has only one Member. These are Members who were placed by the committee with a reason. On the committee on environment, we had a Member from Maendeleo Chap Chap who was a Member of that particular committee but had interest in another committee so he requested that he be moved from that Committee of Environment to Water and Irrigation Committee. So that is where my name is coming.

I was in the Water and Irrigation Committee so I relinquished that committee and let him join and I replaced him in this other committee. I wanted to make that comment so that Members may not be confused. Otherwise, Madam Speaker, the report is well-balanced. I am appealing to the Hon. Members to agree with the report. I am very sure there will be less noise in this Assembly. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Mheshimiwa. Mheshimiwa Kavyu.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker. I also want to support the report on the grounds that when we began in this House, we made a commitment that the third Assembly is going to be a House of equity and I want to thank you for the leadership you have shown and also the leaders both Minority and Majority Leaders that they have never hesitated on consulting each other to ensure that we have a well-balanced House.

I wish to support the report because for them seeing the committees on Procedure and Selection agreeing to split some of the committees that were combined. I believe this has the effectiveness and service delivery by having distinct committees on the roles that have been split. Also in terms of Membership, the issues of all parties have been taken into account including even the Members who are independent. It is a balanced report and I wish to support the same. Thank you.

Hon. Speaker: Thank you, Member for Kinanie. Mheshimiwa Brian.

Hon. Brian Kisila (Makutano/Mwala, MCCC): Thank you, Madam Speaker. I stand here to first of all thank the Committees on Selection and Procedure and Rules under your chairmanship for having gone through to come up with two additional committees to accommodate more Members. This Third Assembly is a living testimony where the two sides and the two leaders, Majority Leader and Minority Leader are sitting together for the unity of both the Members and the welfare of the county.

We were in the Second Assembly and I can tell you nothing of this sort was happening. When leaders consult and agree on equity that is a major breakthrough in what we are going to do in the next five years. I see this House achieving a lot on the basis of we are working together. We are consulting each other; we are not selfish, we are thinking about each other and personally

I have benefitted because I had few committees and the leadership thought about it and not just me but other Hon. Members have also benefited.

Madam Speaker, we need to do a lot. I am a very powerful member of Health committee and Lands and what I am telling members is let us move away from talking to action. We want to be guided by, we want to be judged as a House which is united together to transform Machakos County and this is a very good example of how we are going to work together to transform our County.

Madam Speaker, I am still requesting there are still more committees and under your chairmanship we can still form other committees and make sure they are part and parcel of this House. For example, Women Caucus is a very powerful committee which needs to be recognized in this Assembly

(Applause)

I am not saying Men Caucus is not there but women caucus was there in the last Assembly but it was not recognized as a committee but I strongly feel that we need to have that committee and empower Hon. Members who are ladies to be able to give us ideas and also help us on a lot of issues which are affecting our women in Machakos especially cancer and issues which are affecting women who are majority voters.

Madam Speaker, there is also another committee on Hon. Members welfare. That is committee that is an area which is always hanging somewhere. No one takes care of Hon. Members' welfare and we need a committee to look at taking care of Hon. Members' welfare and not only Hon. Members welfare but also the entire staff welfare. Those are two committees which we can if the leadership together with Procedure Committee deems fit, if we have them, I feel that we can take this House to the next level. Madam Speaker, I support.

(Applause)

Hon. Speaker: Thank you, Mheshimiwa Kisila. Those are good comments concerning more committees that are very important for this House. Mheshimiwa Anastasia.

Hon. Anastasia Nundu (Nominated, WDM-K): Thank you so much, Madam Speaker, for catching my eye. I would like to thank Madam Speaker for guiding the House Procedure and Rules Committee which came up with these two committees which have given business to this House. We are looking forward to learning from you as members of the Speaker's Panel and for the Members who have gotten these committees we are wishing you all the best and we want to see your performance and I support the report. Thank you.

(Applause)

Hon. Speaker: Thank you, Mheshimiwa. Mheshimiwa DS.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker, I too stand to support this report, it is a well-balanced report and now I call upon Hon. Members who have been placed in this important committees that never existed to take it up and do the needful so

that we may achieve as a County not only County Assembly but also looking at their mandate you find that they are great committees that will need to help this county.

It has been a high task to achieve such having been a member of the Second Assembly. I can say that Selection committee only managed to retreat once during the Second Assembly and second retreat was not possible so I also wish to thank the Hon. Members that we are working with in the Third Assembly for their unity and I can tell it is a unit of purpose. I has not been possible to others but now it is possible with this third Assembly so thank you and I stand to support. Thank you, Madam Speaker.

Hon. Speaker: Thank you, DS, for well-thought comment. Mheshimiwa Ndolo.

Hon. Philip Ndolo (Mitaboni, UDA): Thank you, Hon. Speaker. I stand just to inform Members that the sharing of the committees was done according to the strength of the parties. That is why you find some parties are having more members than the others so a party like Wiper which is having more members was having an opportunity to have more Members in the Committee followed by Maendeleo Chap Chap and the other parties. So these were distributed according to the strengths and the number of the Members that each party has in this House. Thank you. I stand to support.

Hon. Speaker: Thank you, Mheshimiwa. Mheshimiwa Johana.

Hon. Johana Munyao (Mutituni/Ngelani, MCCP): Thank you, Madam Speaker. I stand to support this report on Committee on Selection and also congratulate the Members who have been located to such committees. Madam Speaker, this is a very key committees given that water is a very factor in the livelihood of the County and also Decentralized Units and County Administration where the coordination of projects right from the grassroots entirely lies on who is given to oversee the implementation as a representative of the Executive at either the village level and that reminds us that we still need to look at the County Governments Act and the extent to which it has been implemented in terms of coming up with the units like village councils and also the village administrators and I am sure Decentralized Units and County Administration Committee will play a key role on that.

Madam Speaker, I also want to thank the Members because the report indicates in the spirit of fairness and equity we have seen there are members who relinquished their positions to pave way for other Members; that is the spirit we need in this Assembly. I also congratulate those who gotten positions in the new committees and at the same time overtime I have also realized there is also need for us in the relevant committee to relook at the mandate of the various committees where we have seen some overlaps so that we are sure who is undertaking what in terms of executing our oversight role through the mandate vested on the said committees. Thank you; I support.

Hon. Speaker: Thank you Mheshimiwa Johana. I now want to invite the mover to reply.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I really would like to thank the Whole House since the issues of committees came up we have demonstrated unity and you know give and take while we are forming these committees. I would also want to thank my brother Mheshimiwa Philip Ndolo for recognizing that the

committees were actually based on party strength but then I would also to ask the parties with one member or two members why they are in committee.

Our party like Wiper party we were very generous so that we also make sure that we take care of our Members who are on independent ticket and single member party so this generosity should also extend to other business of the House I plead with the members so that we move forward together. Thank you once again.

(Applause)

Hon. Speaker: Thank you Majority Leader.

(Question put and agreed to)

(Applause)

REQUEST FOR EXTENSION OF TIME TO COMPILE REPORT
ON MICROFINANCING ACTIVITIES IN THE COUNTY

Hon. Speaker: May I request Hon. Peter Kilonzo, Chairperson Justice and Legal Affairs Committee to move the motion.

Hon. Peter Kilonzo (Mbiuni, UDA): Thank you, Hon. Speaker.

Hon. Speaker, that aware that, Article 195 of the Constitution provides that the County Assembly or any of its committees has powers to summon any person to appear before it for the purpose of giving evidence or providing information; Further aware that, Article 183(3) of the Constitution of Kenya, Section 39(2)(b) of the County Governments Act 2012 and County Assembly of Machakos Standing Order 41, a Statement on institutions masquerading as microfinance institutions by loaning the residents monies and later auctioning their property which makes the residents of Machakos not safe was sought in the House on 18th October, 202;

Aware that the statement was committed to the Justice and Legal Affairs Committee;

Acknowledging that in executing its mandate, the Committee is doing investigations, hearing evidence from the victims;

Aware that the committee requested for information from the Acting County Secretary on a number of issues relating to licenses, agreements and the regulatory framework established for the operation of the microfinance institutions;

Further aware that the committee has asked for documents on operations of the business from the microfinance institutions;

Aware that the County Secretary and the microfinance are yet to submit the said documents;

Hon. Speaker, I wish to move the motion that the House resolves to grant the Justice and Legal Affairs Committee three weeks to complete the matter and report to the floor of the House on 6th December, 2022.

I now call upon Hon. Mutie to second the motion.

Hon. Speaker: Hon. Mutie.

Hon. Vincent Mutie (Upper Kaewa, WDM-K): Thank you, Madam Speaker. I raise to second this Motion that the House grants us an extension bearing in mind that we are dealing with a very delicate matter where we have to source all the required information and the relevant documentations so that when we give our recommendations, those recommendations will be based on the facts as they are and without leaving any information out. So, I second. Thank you.

(Question proposed)

Hon. Speaker: May I invite members to debate this motion. Mheshimiwa Ndawa.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you, Madam Speaker. I am the MCA for Matuu ward where the business before the House is more serious than other areas of this County. Hon. Speaker, I believe the Hon. Member who is the Chair of the committee is requesting for more time; I think is doing that in what we call you call it which is the best word in good faith but the problem that I have with the extension by three weeks is on the sensitivity of the matter and the issues. Right now, I have been receiving calls from some of the affected parties in the matter under investigation.

Madam Speaker, I am aware and I am a witness because I also attended, the committee did its best, they toured Matuu they summoned the affected members, and also the purported microfinance officers and they gathered information. During that sitting Madam Speaker, the committee made some orders and injunctions. Hon. Speaker, I am not opposing the extension, but I am requesting as we grant them leave to work for the next three weeks, can the orders be documented and served to the area OCS for compliance because we just gave orders and we did not put it on paper.

Right now, one of the affected party whose motorbike was confiscated, has been calling to inquire about the fate of the motorbike and I have requested him to go to the area OCS to report the matter because those who took the motorbike did not have a court order and that is what we call robbery with violence because if you go to pick things from somebody's house without consent that is robbery with violence.

The person has gone to the OCS and he has sent a text to me and the text says 'that the committee did not serve him with injunction that was issued and the committee and that the committee did not give the OCS the list of the affected parties.' So the OCS is waiting for that list and those injunctions so that he can be able to secure and ensure that there is sanity in Matuu. Madam Speaker, let me report here that since that time when the committee came to Matuu, there is a lot of harmony in Matuu.

(Applause)

The committee is the most powerful committee as far as I am concerned. Even some of the micro finance institutions do not open their offices since that day. They did not step their foot in those offices. So what we are requesting just documentation of those orders and injunction and

I am very sure everything will be okay. I am not opposing; I am supporting. Thank you, Madam Speaker.

(Laughter)

Hon. Speaker: Thank you, Mheshimiwa. On that account, if there is any party who has not been served with the order is important that they are served. Let everyone be involved in this and especially those who are concerned and involved; to you the Chair of that committee. Mheshimiwa Helen Ndeti.

Hon. Helen Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. Mheshimiwa Ndawa, I know you are very affected, and we are also affected as people of Machakos. I looked at our report, and most of the most of the people affected are women. All those who have taken loans and their items are being on confiscated are women but you know, the law is also we cannot rush into making a quick decision. We need to make sure that we seal all loopholes before we declare them as illegal business people in Machakos County.

So, I think that is why as a committee, we have seen the need to ask for more time so that we understand even the documentation they have given us whether it is fake or valid. There is a little bit of time that we need so that we do a good report. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Mheshimiwa. Mheshimiwa Dee.

Hon. Mutisya Kivuva (Nominated, WDM-K): Thank you, Madam Speaker. I want to support the motion for extension more so coming from a senior lawyer who is the Chair of the committee; people may not recognize that he is a man a man of very many books.

(Applause)

So if he thought it wise for an extension up to 6th December, 2022 so be it. On another day on a different note, Madam Speaker, I have seen the phone Minority Leader was communicating with those people using a *kabambe*. Please, Madam Speaker, next time facilitate us with tablets so that the Minority Leader can take photos and when the pupils are up there they will think we are all the same. Thank you, Madam Speaker.

(Laughter)

Hon. Speaker: Thank you, Mheshimiwa Dee; well-noted. Majority Leader

Hon. Nicholas Nzioka (Machakos, WDM-K): Thank you, Madam Speaker. We have all noted and the issue of Minority Leader and his phone, we pray that if we do not have a kitty then i ask all the Members in the House to see it fit that we may contribute some substantive amount; we said we are one and he is suffering, i think we will have a committee for that issue with your permission, Madam Speaker.

But on a serious note i would want to support that we give the Committee some extension because they are asking it on the basis of information that was not provided. So they will be hampered in making recommendations without adequate information. You see they were

requesting information from the acting County Secretary and we now have a substantive office holder in that office and for sure due to issue of transition, the new County Secretary will be able to facilitate. So i support the extension. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Majority Leader. Mheshimiwa Ndwiki and then Mheshimiwa Kavyu.

Hon. Daniel Ndwiki (Mlolongo/Syokimau, WDM-K): Thank you, Madam Speaker. I stand to support and i think we have seen a lot of this happening in our areas. Where i come from, we have several microfinance institutions and we have had business community losing their properties and businesses because of these microfinance institutions which are not well-organized and use laws which oppress the common *wananchi*.

I also urge the Chairman to extend the olive branch to the areas like Mlolongo because the case is not only in Matuu but everywhere. So you should travel in all those areas and do intelligence and see how the matter is affecting people on the ground. I support the extension and urge the committee to visit various parts of Machakos because this is a matter affecting the whole of Machakos and not one area. With those few remarks, i beg to support.

Hon. Speaker: Thank you. Mheshimiwa Kavyu, you are the last.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker. I would like to support the same and request the committee, even as they work on matters that are affecting our people, we can also look at putting in place guidelines or modalities because i believe our people sometimes also benefit from these microfinance institutions. The only thing that needs to be put in place is proper guidelines to ensure our people are cushioned from losing their property in an unscrupulous manner.

So, let us look at how we can harmonize and if there are people who are genuinely doing business, they do it guided by the principle of law other than pretending to serve our people and at the same time exploiting them. Banning them is an option but we can also see if there is room on how we can co-exist. Even as the Committee seeks for room to prepare the report as requested as the Minority Leader, they should treat it as urgent and supply the relevant parties with those documents to ensure those who have lost their items are returned and to cushion any other such operators who may still be operating to make sure our people are not exploited until a proper mechanism is put in place. Thank you Madam Speaker. I support.

Hon. Speaker: Thank you, Mheshimiwa Kavyu. May I invite the mover of the motion to reply?

Hon. Peter Kilonzo (Mbiuni, MCCC): Thank you, Madam Speaker. I want to thank the JLAC Committee for the good job they are doing and also the Hon. Members for supporting the extension of time. We want to promise that we are envisaging to bring a substantial report because the matter is very sensitive and it touches every corner of Machakos.

Hon. Speaker: Thank you very much

(Question put and agreed to)

(Applause)

ADJOURNMENT

Hon. Speaker: The House adjourns to Tuesday 15th November 2022 at 3.00 p.m.

The House rose at 1.23 p.m.