

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 21st February, 2023

The House met at 10.42 a.m.

[The Temporary Speaker (Hon. (Ms.) Anastasia Nundu) in the Chair]

PRAYERS

PETITION

ISSUANCE OF APPROVAL PAPERS FOR LAND PREVIOUSLY
OWNED BY EAST AFRICAN PORTLAND COMPANY

Hon. Temporary Speaker: Hon. Members, the Office of the Clerk of the County Assembly is in receipt of a Petition from Kathama Welfare Association, Lukenya West Self-Help Group, Syokimau-Mavoko Community Association and Ngwatanio ya Mukamba self-help group which are part of the Mavoko Land Association. The Petition is dated 25th November, 2022 and was received on 28th November, 2022.

Hon. Members, the Petition brings to the attention of the County Assembly in the regulation of parcels of land in Mavoko sub-county that were originally under the ownership of the East African Portland Company and that in the year 2020, the East African Portland Company which is 52 per cent government and 48 per cent private in shareholding, wrote to the cabinet to seek approval to dispose the fully mined and idle land as a way of raising capital to fund the company's petitions.

Hon. Members, the Petition alleges that the disposal was successfully done but the efforts to have the department of lands in the county government of Machakos survey, sub-divide, map and issue the title deeds have been futile. Hon. Members, the Petitioner prayer is that the County Assembly intervenes in the issuance of approval papers to facilitate transfer of ownership.

Standing Order 200 provides the Speaker may allow comments, observations or clarification in relation to a Petition presented or reported and such total time shall not exceed 30 minutes. Further, Standing Order 201(1) provides every Petition presented or reported pursuant to this part shall stand committed to the relevant sectoral committee---

(Hon. Helen Ndeti spoke off record)

Yes Hon. Helen.

Hon. Helen Ndeti (Nominated, WDM-K): Madam Speaker, I am wondering whether this should be read by a Member of Committee Lands or by the Speaker. I just want clarification.

Hon. Mbili Ndawa (Matuu, MCCC): Point of information, Madam Speaker.

Hon. Temporary Speaker: Yes, Mheshimiwa Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. I want to inform my senior Hon. Members Hon. Ndeti that what the Speaker is doing is within the confines of the Standing Orders and the Constitution of Kenya. Once you have gone through, that is the time when the Petition can be committed to that Committee. So the Speaker has to read so that she can commit and become the property of the House. So whatever is happening is quite in order. Thank you, Madam Speaker.

Hon. Helen Ndeti (Nominated, WDM-K): Well-guided.

Hon. Temporary Speaker: Yes Hon. Dominic.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you. It is good that Hon. Members learn that at any point in time, the Speaker will never be out of order so you cannot rise on a point of order when the Speaker is on the floor; you can always rise on a point of information. Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you, Hon. Dominic. We can proceed. Hon. Members, Standing Order 200 provides the Speaker may allow comments, observations or clarification in relation to a petition presented or reported and such total time shall not exceed 30 minutes.

Further, Standing Order 201(1) provides every Petition presented or reported pursuant to this part shall stand committed to the relevant sectoral committee. In this regard, the Petition is hereby committed to the Lands and Energy Committee. The committee has 60 calendar days to consider and table a report on the Petition to this House pursuant to Standing Order 201(2).

PAPERS LAID VARIOUS PAPERS

Hon. Temporary Speaker: I invite the Hon. Nicholas Nzioka the Majority Leader, Hon. Dominic Ndambuki and Hon. Grace Bahati on that order to lay the Papers.

Hon. Jackson Ndaka (Tala, WDM-K): Thank you, Madam Speaker. Hon. Speaker, I wish to lay the following Papers on the Table of the Assembly today, 21st February, 2023.

- (i) The Machakos Women and Persons with Disabilities Revolving Fund 2021, Regulations.
- (ii) First and Second quarter reports for FY 2022/23 for the Department of Land Housing, Urban Development and Energy.
- (iii) Second Quarter report for the FY 2022/23 for the Department of Public Health.
- (iv) Second Quarter report for the FY 2022/2023 for the Department of Youth and Sports.
- (v) Second Quarter report for the FY 2022/2023 for the Department of Gender and Social Welfare.

Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you. Hon. Dominic, Chairperson Budget. Clerk Proceed. Hon. Peter Kilonzo, just wait a bit. I commit the Papers to the Delegated Legislation Committee, Lands and Energy Committee and Health and Emergency Services Committee. The Second quarter for the department of Youth and Sports is committed to the Social Welfare and Sports Committee. The second Quarter for the FY 2022/2023 for the Department of Gender and Social Welfare, the Paper should be committed to the Social Welfare and Sports Committee.

Next Paper by Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee.

REPORT ON THE ANNUAL COUNTY
BUDGET IMPLEMENTATION REVIEW 2021/22

Hon. Peter Kilonzo (Mbiuni, UDA): Thank you, Hon. Speaker. I am holding brief for Hon. Dominic. Hon Speaker, pursuant to Standing Order 190(5) I beg to lay the following Paper on the floor of the House today, 21st February, 2023; the Report of the Budget and Appropriations Committee on the Annual County Budget Implementation Review by the Office of the Controller of Budget for the FY 2021/22.

EIGHTH ANNUAL EDUCATION SUMMIT BY COMPETENCE
BUILDING SOCIETY OF EARLY CHILDHOOD EDUCATION FOR KENYA

Hon. Temporary Speaker: Hon. Grace Bahati, Chairperson Education and Social Services Committee.

Hon. Phoebe Koki (Nominated, MCCP): Madam Speaker, good morning and the Hon. House, thank you. I am standing in for the Chair, Education Hon. Grace Bahati being the Deputy Chair Education Committee. Hon. Speaker, pursuant to Standing Order 190(5) (f), I beg to lay the following Paper on the Table of the Assembly today, 21st February, 2023; the Report of the Education and Social Services committee on the eighth Annual Education Summit by Competence Building Society of Early Childhood Education for Kenya. Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you, Hon. Phoebe Koki.

(The Papers were laid on the Table)

NOTICES OF MOTIONS
APPROVAL OF MEMBERSHIP TO POWERS
AND PRIVILEGES COMMITTEE

Hon. Temporary Speaker: I invite Hon. Nicholas Nzioka Majority Leader to give the Notice of Motion.

Hon. Jackson Ndaka (Tala, WDM-K):

Hon. Speaker, that aware that the Committee on Powers and Privileges is established pursuant to Section 15(5) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 189(A);

Further aware that the Committee comprises of the Speaker who shall be the Chairperson, Deputy Speaker and not more than three other Members nominated by Assembly parties and approved by the House at the commencement of every Session;

Informed that pursuant to Section 15(4) of the County Assemblies Powers and Privileges Act, 2017 the Committee is mandated to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16 of the said Act;

Aware that Assembly parties have nominated Members to serve in the Committee;

Hon. Speaker, I wish to give notice of motion that pursuant to Standing Order 189A this House approves the following members to Powers and Privileges Committee in addition to the specific Members provided under Standing Order 189A (a) and (b);

1. Hon. Nicholas Nzioka
2. Hon. Constance Nzioki
3. Hon. Mary Nthenya

Thank you, Madam Speaker.

REPORT ON THE ANNUAL COUNTY BUDGET IMPLEMENTATION REVIEW 2021/22

Hon. Temporary Speaker: Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee.

Hon. Dominic Ndambuki (Kathiani Central, WDM-K): Thank you, Madam Speaker; I wish to give a notice of motion.

Hon. Speaker, aware that Article 228(6) of the Constitution of Kenya 2010 read together with Sections 9 and 16(1)(b) of the Controller of Budget Act, 2016, requires the Office of the Controller of Budget to submit a report to each house of Parliament on the implementation of the National and County Governments' budgets every four months;

Further, aware that Section 166(2)(a) of the Public Finance Management Act, 2012 which states that "in preparing a quarterly report for a County Government entity, the Accounting Officer shall ensure that the report contains information on the financial and non-financial performance of the entity;

That County Treasuries shall submit reports generated from the Integrated Financial Management systems (IFMIS) and County Approved budgets to the office of the Controller of Budget;

Informed that the Annual County Government Budget Implementation Review Report examines the cumulative budget performance of the 47 Counties for the period July, 2021 to June, 2022;

Hon. Speaker, I wish to give notice of Motion THAT this House discusses and approves the report of the Budget and Appropriations Committee on the Annual

County Budget Implementation Review by the Office of the Controller of Budget for the FY 2021/2022.

Thank you, Hon. Speaker.

Hon. Temporary Speaker: Thank you, Hon. Dominic. Hon. Grace Bahati, Chairperson Education and social services committee.

EIGHTH ANNUAL EDUCATION SUMMIT BY COMPETENCE
BUILDING SOCIETY OF EARLY CHILDHOOD EDUCATION FOR KENYA

Hon. Phoebe Koki (Nominated, MCCP): Thank you, Madam Speaker.

Hon. Speaker, that aware that the Fourth Schedule of the Constitution distributes functions and powers between the national and County Governments and Part 2 of the Schedule as read together with Section 5 of the County Governments Act, 2012, elucidates specific mandates of County Governments. The devolution of ECDE to County governments resonates with Section 26(1) of the Basic Education Act No. 14 of 2013, which further explains that County Governments are responsible for funding the development of required infrastructure for institutions providing ECDE services as well as the VTCs;

Cognizant that the Competence Building Society of Early Childhood Education for Kenya (CBSECE Kenya) is responsible for the spirit of promoting quality services for children by overseeing the adherence of standard and quality assurance guidelines in Early Childhood development and Education at the Counties;

Noting that Machakos County Assembly Committee on Education is a member of the Competence Building Society of Early Childhood Education (CBSECE Kenya) and that members participated in the 8th Annual Education Summit which took place from 5th to 9th December, 2022 at Karen Christian College, Nairobi Kenya;

Hon. Speaker, I beg to give notice of the following Motion THAT, this Hon. House adopts the Report of the Education and Social Services Committee on the 8th Annual Education Summit by Competence Building Society of Early Childhood Education for Kenya (CBSECEK), laid on the Table of the House on Tuesday, 21st February, 2023.

Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you, Mheshimiwa. Hon. Dominic Maitha, Chairperson Committee on Implementation.

EXTENSION OF REPORTING TIME ON STATEMENT
REGARDING IMPLEMENTATION STATUS FOR THE
MACHAKOS COUNTY EMERGENCY FUND REGULATIONS, 2021

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker.

Hon. Speaker, that aware that the select Committee on Implementation is established pursuant to Standing Order 188 and is mandated to scrutinize resolutions of the Assembly;

Aware that on 19th October, 2022 during the afternoon plenary sitting, a Statement on implementation status for the Machakos County Emergency Fund Regulations, 2021 was sought and referred to the Committee on Implementation to inquire on operationalization of the Fund;

Cognizant that the committee conveyed the sought Statement to the department of Finance, Revenue Management and Economic Planning and aware that it took more than the stipulated time for the Department to give their response which prompted the committee to do a first reminder and second reminder;

Hon. Speaker, aware that the stated second reminder was responded by the Department on 6th December, 2022, the Committee interrogated the forwarded response on the assigned task and further resolved to meet the Chief Officer Department of Finance on Monday, 20th February, 2023 for further clarification on issues raised by the Committee concerning the response;

Hon. Speaker, I wish to move the motion that the Implementation Committee be granted more time, a period of two weeks (14 days) to complete the matter so as to respond on the Statement.

Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you, Hon. Dominic. Next order.

STATEMENT

BUSINESS FOR THE HOUSE FROM 21ST TO 28TH FEBRUARY, 2023

Hon. Temporary Speaker: Hon. Nicholas Nzioka, proceed and give the Statement.

Hon. Temporary Speaker: Hon. Nichols Nzioka, proceed and give the Statement.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. My name is not Hon. Nicholas Nzioka; I am Judas Mbili Ndawa, the Leader of Minority. As you are aware Madam Speaker, the House Business Committee is led by the Chair and when the Chair is not present, the Minority Leader takes his position. Hon. Speaker before I read the Statement I take this opportunity to congratulate you for taking that position and say that you are doing it perfectly. So thank you very much for the good job you are doing; so far so good.

(Applause)

Hon. Speaker, the House Business Committee met on 21st February, 2023 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, 21st February 2023

Morning at 10.00 a.m.

- (a) Petition on Mavoko Land Association by Hon. Speaker and you have done it perfectly.
- (b) Motion on Approval of membership of the Powers and Privileges by Hon. Nicholas Nzioka, Leader of the Majority Party.

- (c) Motion on extension of time by Hon: Dominic Maitha, Chairperson, Committee on Implementation.

Afternoon at 2.30 p.m.

- (a) Report on the Annual County Budget Implementation Review by the office of Controller of Budget FY 2021/2022 by Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee.

Wednesday, 22nd February, 2023

Morning at 10.00 a.m.

Report on inquiry into alleged regularization program for the parcels of land under management of East African Portland Cement Company by Hon. Daniel Ndwiki, Chairperson, Lands and Energy Committee.

Afternoon at 2.30 p.m.

Report on the 8th Annual Education Summit by Competence Building Society of Early Childhood Education for Kenya by Hon. Grace Bahati, Chairperson, Education and Social Services Committee.

Tuesday, 28th February 2023

Morning at 10.00 a.m.

Motion on marking boundaries of all access roads in Machakos County by Hon. Peter Kilonzo, MCA, Mbiuni Ward.

Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you Minority Leader.

MOTIONS

APPROVAL OF MEMBERSHIP TO POWERS AND PRIVILEGES COMMITTEE

Hon. Temporary Speaker: I call on Hon. Nicholas Nzioka Majority Leader to proceed and give the motion.

Hon. Jackson Ndaka (Tala, WDM-K):

Hon. Speaker, that aware that the Committee on Powers and Privileges is established pursuant to Section 15(5) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 189(A);

Further aware that the Committee comprises of the Speaker who shall be the Chairperson, Deputy Speaker and not more than three other Members nominated by Assembly parties and approved by the House at the commencement of every Session;

Informed that pursuant to Section 15(4) of the County Assemblies Powers and Privileges Act, 2017 the Committee is mandated to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16 of the said Act;

Aware that Assembly parties have nominated Members to serve in the Committee;

Hon. Speaker, I wish to move the motion that THAT pursuant to Standing Order 189A this House approves the following members to Powers and Privileges Committee in addition to the specific members provided under Standing Order 189A(a) and (b);

1. Hon. Nicholas Nzioka
2. Hon. Constance Nzioki
3. Hon. Mary Nthenya

I wish to invite the Hon. Judas Ndawa, the Minority Leader, to second the motion.

Hon. Temporary Speaker: Hon. Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCC) seconded.

Hon. Temporary Speaker:

(Question proposed)

I now invite members to debate the motion. Yes, Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCC): Hon. Speaker, I rise to support the motion and say in every institution we must have a disciplinary committee and for the new members this is the committee which will be dealing with members if you misbehave this is the committee that you will be appearing before. Hon. Speaker, while supporting the motion, I just want to request from the way you have conducted yourself today, that is a clear indication that every Member in this House can be assigned a certain task and perform it perfectly; you have proved that.

So, Hon. Speaker, I am requesting the Members of this Rules and Procedure Committee, once they sit, we can see the Speaker is the Chair and that is guaranteed and we can see the members who are there. I can see the Majority Leader. The Majority Leader chairs in other committees. We have Mheshimiwa Ndilo who is also a Chair of another committee. The only member who is not holding a position is Mheshimiwa Mbula.

Hon. Speaker, I am requesting that once we approve this committee, let the Members go and give Mheshimiwa Mbula the Vice Chair position so that she can be able to execute her mandate because from today's proceedings, it is clear that any Member and especially women, you are doing wonderful and you can do better. So I am requesting that they consider that. Thank you, Hon. Speaker.

(Applause)

Hon. Temporary Speaker: Thank you, Minority Leader. I know you are he for she!

(Applause)

I now invite the mover to reply. Hon. Majority Leader.

Hon. Jackson Ndaka (Tala, WDM-K): Hon. Speaker, allow me to thank the Members of this Assembly for supporting the motion and working in good spirits for the benefits of our County and for the benefits of our Assembly. Indeed what the Hon. Minority Leader has said, that should be the spirit and we should work here as brothers and sisters. So, I thank you Hon. Members.

(Applause)

Hon. Temporary Speaker: Thank you, Majority Leader.

(Question put and agreed to)

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Cognizant that the committee conveyed the sought Statement to the department of Finance, Revenue Management and Economic Planning and aware that it took more than the stipulated time for the Department to give their response which prompted the committee to do a first reminder and second reminder;

Hon. Speaker, aware that the stated second reminder was responded by the Department on 6th December, 2022, the Committee interrogated the forwarded response on the assigned task and further resolved to meet the Chief Officer Department of Finance on Monday, 20th February, 2023 for further clarification on issues raised by the Committee concerning the response;

Hon. Speaker, I wish to move the motion that the Implementation Committee be granted more time, a period of two weeks (14 days) to complete the matter so as to respond on the Statement.

I wish to call Hon. Mercy Njagi to second the motion as a member of the committee.
Thank you.

Hon. Temporary Speaker: Hon Mercy Njagi.

Hon. Mercy Njagi (Nominated, M CCP): Thank you, Madam Speaker. I second the motion.

Hon. Temporary Speaker: Thank you, Mheshimiwa Mercy Njagi.

(Question proposed)

I now invite Members to debate the Motion. Yes, Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you, Madam Speaker. Hon. Speaker the motion before the House is an issue of extension and I am supporting the motion so that the particular committee can have ample time to compile its report. What I would request Hon Speaker; as you are aware we have two arms of government and there is what we call separation of powers and duties. Hon. Speaker, I am just making an appeal that each arm of the government does its duties and obligation considering the timelines and the period which is supposed to do what is supposed to do.

Hon. Speaker, so that the Chairman can come and request the extension, that is a prove that there was a delay and the motion is self-explanatory that they requested for information, the information was not availed, they wrote a reminder the first one everything went mum; there was no communication then the committee went ahead and wrote the second reminder.

Hon. Speaker, this is evident that the other arm of the government is not is not responding to issues on time and we are requesting, because it is an issue of emergency and we are not aware of what can happen today or tomorrow.

In Turkey, there was this earthquake and you know what happened. Suppose we have something like that in Machakos County and we do not have the Regulations and even if have the resources, we do not have the Regulations that can allow those funds to be used to address that particular problem. So, Hon. Speaker, this is an issue which needs to be dealt with immediate effect so that we can be set and ready for any eventuality.

So, Hon. Speaker, I am requesting our counterparts on the other side that once we communicate to them for certain information, let them avail information in good time so that this House is not held hostage by their delay and we are doing this in good faith. All of us we are having the same client; the client who is being is served by the Assembly is the same client who is being served by the Executive and we agreed that we should work hand in hand to ensure that things are moving in our County. So, Hon. Speaker, I support the motion.

Hon. Temporary Speaker: Thank you, Minority Leader. Hon. Ndeti.

Hon. Helen Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. I want to stand here to support the motion. I just want to say to an example of what happened some two years ago when we had floods and a lot of people from especially Mua ward and other parts of the County we are affected because of the floods and I remember our Deputy Governor being very helpless because he could not do much. We had funds in the account but the funds could not be released so some of us were forced to go out and look for funding so that we can buy blankets and food for those who were displaced.

So it is a very important job motion and that we should pass it and request the committee concern to move with speed to ensure that they get this report and they bring it up for the passing of the Regulation. Thank you.

Hon. Temporary Speaker: thank you Helen Ndeti. I now invite the mover Hon. Dominic Maitha to reply.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker, for this moment. Once again, I thank the Minority Leader and I thank the Hon. Senior Helen Ndeti. Madam Speaker, we ought to have completed this matter way long time ago and I want echo the words of the Minority Leader. It is quite unfortunate 10 years down the line, the County Government of Machakos has never had anyone single day spent or allocated funds to the County Emergency kitty. There have been so many emergencies that are well-known to each and every one of us.

Recently, corona which left so many counties devastated financially, the locusts menace and currently the hunger menace and the water menace in this county and for the last 10 years, nothing has not been done to this effect. It is quite unfortunate that the committee came to realize that it is only Ksh. 5 million which is a paltry 0.01 per cent of the total County budget that was allocated to this kitty and when we pushed so hard on the same, a supplementary budget was brought before this House towards the tail end of last year and Ksh. 35 million was appropriated and it all added to Ksh. 40 million.

The most important unfortunate part of it is that these monies cannot be spent. In case right now we have an emergency, we have to look for alternative means as Hon. Helen has alluded to cushion the same for just one simple reason; there are no Regulations.

So, Madam Speaker, we seek this extension; yesterday we were supposed to meet the Chief Officer, Finance and it is so disappointing that as the committee was seated, we only received a communication through Whatsapp that the Chief Officer had sought to excuse himself from the meeting because he was attending a function in Naivasha which is too unfortunate and quite uncalled for. This is a House of procedure; the Executive ought to respond on time so that Members can allocate that time for committee sittings to undertake another business.

The Committee of Implementation and the Members can attest, has good a lot of pending work for the last almost three years so if every Chief Officer or every member of the Executive or any other member will be called to come to respond to queries in any committee and they keep on postponing and adjourning, this House will never proceed, Madam Speaker. So, it is that the high time office of the Speaker communicates, through the office of the Clerk; to the Executive so that they can give us timely responses we can expedite these matters and be able to move on other matters.

So, Madam Speaker, we seek to get that approval on extension of time the next two weeks. Fortunately or unfortunately, we are paying to have met with the Chief Officer today when he made an impromptu visit and we have discussed on the same and we have told them in the next 14 days they must present this House queries that we are raised and responses and also give us the Regulations so that they can be committed to the relevant committee so that we can expedite on them and the kitty operationalized as soon as practicable.

So, I thank Hon. Members and I request, through your office, ensure that there is proper communication to the Executive so that we need timely responses by the Executive so that we can finish this matters and try to clear the backlog that is pending in most of the committees and that will generate business for this committee. So, otherwise thank you Members and we shall commit to the same. Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you, Hon. Chair.

(Question put and agreed to)

(Applause)

ADJOURNMENT

Hon. Temporary Speaker: The House at adjourns to Tuesday, 21st February, 2023 at 2.30 p.m.

The House rose at 11.28 a.m.