

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS
OFFICIAL REPORT

Tuesday, 21st February, 2023

The House met at 2.36 p.m.

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

PRAYERS

Hon. Temporary Speaker: Good afternoon Hon. Members. I can see we do not have quorum so I can ask the Serjeant at Arms---

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

Hon. Temporary Speaker: Yes Mheshimiwa.

Hon. Mbili Ndawa (Matuu, MCCP): Thank you. It is parliamentary practice that Speakers do not have eyes when it comes to issue of quorum. You have to be informed by a Member. So unless it comes to a Member we do not agree whether we do not have enough quorum in this House.

Hon. Temporary Speaker: Minority Leader, thank you for that but according to Standing Orders, it tells me that without any quorum, we cannot run. We can give ourselves like three or two minutes at least.

(Quorum Bell rung)

Serjeant at Arms, can stop the bell? Hon. Members, let us start.

PAPER LAID

REPORT ON ENQUIRY INTO REGULARIZATION PROGRAM
FOR LAND UNDER EAST AFRICAN PORTLAND CEMENT COMPANY

Hon. Helen Ndeti (Nominated, WDM-K): 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 Lands and Energy Committee on an inquiry into the regularization program for the parcels of land under the management of east Africa Portland Cement Company.

Hon. Temporary Speaker: Thank you, Hon. Helen Ndeti. Next order.

NOTICE OF MOTION

REPORT ON ENQUIRY INTO REGULARIZATION PROGRAM
FOR LAND UNDER EAST AFRICAN PORTLAND CEMENT COMPANY

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

Hon. Speaker, that aware THAT, Article 60 of the Constitution of Kenya, 2010 states that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive, and sustainable;

Further aware THAT the Committee of Lands and Energy, pursuant to the Second Schedule of the Standing Orders, is mandated to deal with all matters related to County physical planning and development; land survey and mapping; boundaries and fencing; electricity and gas reticulation and energy regulation;

Informed THAT East African Portland Cement Company (EAPCC) is a government corporation that was issued land by the government for a certain use for a predetermined amount of time before reverting the land back from the government; Aware THAT the said corporation was allocated land by the National Government for quarrying and cement production;

Cognizant THAT during a committee sitting held on 3rd November, 2022, members raised concerns on several issues regarding land under use by East Africa Portland Cement Company (EAPCC), in the Mavoko sub-county;

Aware THAT guided by the terms of reference set, the Committee on 7th November, 2022 held a meeting with the management of the Company and Chairpersons of the neighboring land societies for the purpose of interrogating them;

Hon. Speaker, I wish to give Notice of Motion THAT this Hon. House adopts the report of the Committee on Lands and Energy on an inquiry into the regularization program for the parcels of land under the management of East African Portland Cement Company.

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

MOTION

REPORT ON THE ANNUAL COUNTY BUDGET IMPLEMENTATION REVIEW 2021/22

Hon. Dominic Ndambuki (Kathiani Central, WDM-K): Thank you, Hon. Speaker.

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 move the 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 2021/22.

I wish to call upon Hon. Justus Mutuku to second.

Hon. Temporary Speaker: Hon. Justus Mutuku.

Hon. Justus Mutuku (Wamunyu, PTP): Thank you, Madam Speaker. I second the motion.

Hon. Temporary Speaker: Thank you so much, Mheshimiwa Justus.

(Question proposed)

Before I invite Members for debate, let me call the mover Hon. Dominic Ndambuki to take the House through the highlights of the report.

Hon. Dominic Ndambuki (Kathiani Central, WDM-K): Thank you, Hon. Speaker. With your permission Hon. Speaker, I am going to give these House highlights of the report from the Controller of Budget. Report by the Budget and Appropriations committee which is the second report on Annual County Budget Implementation Review report by the office of the Controller of Budget. It has been prepared this month, February 2023, and as I had alluded to before Hon. Speaker, this report has been prepared in accordance with Article 228(6) of the Constitution of Kenya, 2010 read together with Sections 9 and 16(1)(b) of the Controller of Budget (CoB) Act, 2016, which requires the Office of the Controller of Budget (OCoB) to submit a report to each house of Parliament on the implementation of the National and County Governments' budgets every four months.

This Annual County Government Budget Implementation Review Report (CGBIRR) examines the cumulative budget performance of the forty-seven Counties for the period from 1st July, 2021 to 30th June, 2022. The analysis and preparation of this report is based on the financial reports submitted to the Controller of Budget by the County Treasuries, the approved County Budgets and reports generated from the Integrated Financial Management Information System (IFMIS).

The report highlights the achievements and challenges encountered in budget implementation by the County Governments in the financial year. It also proposes recommendations to address the difficulties identified to promote better budget implementation and prudence in public finance management.

Mandate of the Committee

Hon. Speaker, the Budget and Appropriations Committee (BAC) derives its mandate from Standing Order 186(3)(a) which states that "there shall be a select Committee to be known as the County Budget and Appropriations Committee which is mandated to, investigate, inquire into and report on all matters related to coordination, control and monitoring of the County budget."

Further, the Standing Orders mandate the committee to investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget, discuss and review the estimates and make recommendations to the Assembly, examine the

County Budget Policy Statement presented to the Assembly; Examine Bills related to the county budget, including Appropriations Bills and evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.

Hon. Speaker, the main objective of the committee is to ensure that public funds are well utilized and that the public realizes value for money in all government expenditure.

Committee Membership

Hon. Speaker, the committee of Budget and Appropriation as constituted by this Hon. Assembly comprises of the following members.

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|--------------------------|--------------------|
| 1. Hon. Dominic Ndambuki | - Chairperson |
| 2. Hon. Justus Mutuku | - Vice Chairperson |
| 3. Hon. Judas Ndawa | - Member |
| 4. Hon. Phoebe Koki | “ |
| 5. Hon. Peter Kilonzo | “ |
| 6. Hon. Nicholas Nzioka | “ |
| 7. Hon. Stephen Mwanthi | “ |
| 8. Hon. Margaret Ndalana | “ |
| 9. Hon. Winfred Mutua | “ |

SECRETARIAT

- | | |
|-------------------------|-------------------------|
| 1. Ms. Evelyne Kimote | -Senior Clerk Assistant |
| 2. Ms. Mary Nzemi | -Clerk Assistant |
| 3. Mr. Sylvester Nzangi | -Senior Fiscal Analyst |
| 4. Mr. Shadrach Mbithi | -Fiscal Analyst |

Adherence to Legal Provisions

Hon. Speaker, this report is prepared in accordance to the provision of the Constitution of Kenya Article 228(4) which states that “the Controller of Budget shall oversee the implementation of the budgets of the National and County Governments by authorizing withdrawals from public funds under Article 204, 206 and 207. Further Article 228 (6) states that “every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the National and county governments,”

PFM Act, 2012 Section 39(8) states that “the Controller of Budget shall ensure that members of the public are given information on budget implementation both at the National and County Government level in accordance with Article 228 of the Constitution”.

This report also complies with Sections 166 and 168 of the PFM Act, 2012 and Sections 9 and 16 of the COB Act, 2016.

Annual County Budget Implementation Review Report, FY 2021/22

Approved Budget

Hon. Speaker, the Machakos County Government’s Annual budget for the F/Y 2021/2022 was Ksh. 13,089,716,880.00; being Ksh. 9.05bn for Recurrent and Ksh. 4.04bn for Development. To finance the budget the County expected to receive Ksh. 9.16bn (70%) as equitable share; generate Ksh. 1.68bn (13%) from its own sources; Ksh. 1.59bn (12%) as conditional grants and use Ksh. 659.27 Million (5%) cash balance from FY 2020/21.

Revenue Performance

Hon. Speaker, in the FY 2021/22, the Machakos County Government received Ksh. 8.43bn as the equitable share, raised Ksh. 1.12bn as own source revenue, Ksh. 135.66M as conditional grants and had a cash balance of 659.27M; a total of Ksh. 10.34bn, translating to a 79% performance of the total budget for FY 2021/2022.

Hon. Speaker, the County realized Ksh. 1,118,461,753.00 as Own Source Revenue in the FY 2021/22 against a target of Ksh. 1,682,894,197.00, a performance of 66.5%. This was also a decrease of 13.7% compared to the Ksh. 1.3bn realized in FY 2020/21. The table below depicts the trend in the County's own source revenue collection from FY 2013/14 to 2021/22:

*Machakos County Annual Trend in Own Source Revenue Collection: FY 2013/14 – 2021/22
(In Billions Ksh.)*

2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
1.174	1.355	1.122	1.259	1.084	1.557	1.376	1.296	1.118

Source: OCOB Reports, Machakos County Treasury

Expenditure

Hon. Speaker, during the FY under review, the COB approved Ksh. 10.35bn withdrawals from the County Revenue Fund (CRF) comprising Ksh.1.40bn (13.6%) for development programmes and Ksh. 8.94 billion (86.4%) for recurrent programmes. In the FY 2021/22, the County had a total expenditure Ksh. 9,990,834,707.00; Ksh. 8.67bn being recurrent expenditure and Ksh. 1.32bn for development projects. Of the recurrent expenditure, Ksh. 6,400,178,586.00 was spent on Personnel Emoluments, 64% of the total actual expenditure for the year, while Ksh. 2,273,138,970.00 was for Operations and Maintenance (O&M).

Hon. Speaker, the expenditure on personnel emoluments was way above the set threshold of 35%. Nationally, only four (4) counties had expenditures on wages and benefits within the ceiling as provided by the law. They are Mandera at 28.4%, Tana River at 29.6%, Isiolo at 33.1% and Kwale at 34.9%.

Hon. Speaker, the County Assembly spent Ksh. 62.71Million on committee sitting allowances for the then 59 Members of County Assembly and the Speaker. In the FY 2021/22, the expenditure on domestic travel amounted to Ksh. 557.54 Million; Ksh. 228.38 Million by the County Assembly and Ksh. 329.16 Million by the County Executive. The expenditure on foreign travel amounted to Ksh. 127.12 Million; Ksh. 71.40M by the Assembly and Ksh. 55.72 Million by the Executive.

Hon. Speaker, the absorption of the development budget was very low during the FY 2021/2022; Ksh. 1.32bn as the actual expenditure against a budget of Ksh. 4.04bn. This was also a decline of 50.8% compared to FY 2020/21, when the County spent Ksh. 2.68bn on development programmes. Nevertheless, some major projects were undertaken during the FY under review. These include upgrading of different roads, equipping & reticulation of boreholes, construction of the new Assembly chamber, renovation of health facilities, construction of Ward offices, construction of weirs and dams, construction of the Speaker's residence, construction of Boda boda sheds and ECDE classrooms in various Wards in the County.

Pending Bills

Hon. Speaker, as at 30th June, 2022, the County Government of Machakos reported unsettled financial obligations of Ksh. 809,522,345.00. This comprised of Ksh. 725,182,729.00 for the County Executive and Ksh. 84,339,616.00 for the County Assembly. Across the Country,

only Manderu County Executive didn't report any pending bills for the year under review as well as twenty one (21) County Assemblies.

County Established Funds

Hon. Speaker, Section 116 of the PFM Act, 2012 allows County Governments to establish other public funds with the approval of the County Executive Committee and the County Assembly. During the year under review, Ksh. 170.34 Million were allocated to Machakos County established Funds, constituting 0.3% of the overall budget for the year. These are Staff Car Loans (Ksh. 5 Million), MCAs Car Loans (Ksh. 50 Million), Staff Mortgages (Ksh. 35 Million) and Bursary Fund (Ksh. 80.4 Million). The Machakos County Emergency Fund is yet to be established.

Submissions by the County Executive Committee Member for Finance

The Committee invited the County Executive Committee Member (CECM) in charge of Finance to respond to some of the key issues raised by the committee and below were the submissions:

- (i) Low absorption rate of the budget was caused by late disbursement of funds from the National Treasury and low performance of Own Source revenue.
- (ii) The declining trend in Own Source Revenue collection from FY 2018/19- 2021/22 was as a result of the effect of COVID-19 pandemic which led to a reduction in economic activity due to measures such as lockdowns, curfews, and restrictions on movement. This led to a decline in revenue from sources such as single business permits, rents, bus park fees, parking fees among others.

Further, there was tax waivers and reduction of revenue collections from some sources as per Executive Order from the Governor to support local businesses and citizens so as to cushion them from the adverse effects of Covid 19 pandemic. The Chief Officer stated that the department had introduced a single pay-bill number for all revenue streams in the whole County to enhance efficiency and effectiveness in revenue collection. This would reduce financial leakages and improve on the own source revenue. The department is also planning to fully digitize revenue collection to eliminate revenue leakages

- (iii) The CECM informed the committee that the huge outstanding pending bills was as a result of underperformance of own source revenue and delay on disbursement of funds from the Treasury. However, the department had prepared a payment plan for all the eligible bills.
- (iv) The issue of operationalization of the Machakos County Emergency Fund was raised and the Executive responded that the process of establishing the structures required to operationalize the Fund was on-going.
- (v) Further the CECM informed the Committee that all employees were paid using the Unified Human Resource Information System for public service except a few newly recruited who were in the process of being incorporated into the system.
- (vi) On the provision of financial and non-financial quarterly reports to the Assembly and other relevant institutions such as OCOB the CECM promised to adhere to legal timelines and ensure all reports were submitted to the relevant authorities.

General Committee Observations

Hon. Speaker, the committee observed that there are a number of challenges that hindered effective budget execution during the FY 2021/22 which include:

1. High level of outstanding pending bills
2. Low expenditure on development budget
3. Underperformance in own source revenue collection
4. High expenditure on personnel emoluments
5. Use of manual systems to process the payroll or some part of the payroll
6. The County Emergency Fund was not operational
7. Delays in disbursement of funds from the Exchequer.

Committee Recommendations

- 1) The pending bills should be budgeted and settled as a first charge in the subsequent financial years in line with Regulation 41(2) of PFM (County Governments) Regulations, 2015. The Accounting Officers should adhere to the annual budgetary allocations when making any financial commitments to undertake any project or acquire goods/services. Procurement of goods and services should be initiated in good time to enable the County government settle the commitments before the end of the financial year. The committee also directs the respective Departmental Chief Officers to provide a list of the pending bills within one month after tabling of this report with aging analysis and the plan on how to settle them.
- 2) The County Executive should prioritize implementation of development projects so as to improve the standards of living of the Machakos County residents. The procurement processes for capital projects should be initiated early enough and in the beginning of financial years to ensure their timely completion. The County Executive should ensure that the spending on development activities meets the minimum set threshold of 30% of the annual budgets. Also, the projects identified and undertaken should match the funds allocation to ensure successful completion of each and every project.
- 3) The County Executive should review revenue targets to ensure that they are realistic and attainable. Strategies should also be made and implemented to mobilize the Own Source Revenue, digitize revenue collection and curb the declining trend. The Executive should also build the capacity for Revenue Officers, strengthen the revenue streams and set targets to enhance revenue collection. Proper internal control mechanisms should be adopted to ensure revenue receipts are banked intact into the County Revenue Fund (CRF) in accordance with Section 109(2) of the PFM Act, 2012.
- 4) The County Executive should ensure that spending on personnel emoluments is contained at a sustainable level and in line with Regulation 25(1)(b) of PFM (County Governments) Regulations, 2015.
- 5) The County should fully use the Unified Human Resource (HR) Information System for public service to process its payroll. Use of manual systems is prone to abuse as opposed to the Integrated Personnel and Payroll Database (IPPD) which has sufficient capacity to securely capture, process, store and supply information for timely and accurate execution of the HRM functions.
- 6) The County Executive to operationalize the Machakos County Emergency Fund Regulations passed by the House and have the Fund established as soon as possible.

- 7) The County Executive to implement mechanisms that ensures adherence to legal provisions on submission of financial and non-financial statutory reports to the relevant Institutions
- 8) The National Treasury to ensure that the disbursement of the equitable share of revenue is done in time to ensure effective budget implementation in counties.

Conclusion

Hon. Speaker, the Committee noted that many stalled projects were caused by failure to follow the Legal provisions and the County needs to put measures in place to ensure that no new major projects are initiated before completing the existing ones and fully settle the eligible pending bills.

Further, it was noted that new projects are initiated and funds committed without factoring in the pending projects hence accumulating huge unsettled obligations. The BAC expects the County Executive to implement the Committee's recommendations to ensure efficient budget implementation. Further, the Assembly's Committee on Implementation to fast track and monitor the implementation of these recommendations.

Acknowledgement

Hon. Speaker, the Committee on Budget and Appropriations appreciates the Office of the Speaker and the Clerk of the County Assembly for facilitating the committee to undertake its mandate.

I wish to acknowledge Hon. Members of the Committee who sacrificed their time to participate in the meetings and in preparation of this report. I also wish to acknowledge the sincere efforts of the secretariat in compiling this report.

Hon. Speaker, it is therefore my privilege, on behalf of the Budget and Appropriations Committee to table the report on the Annual County Budget Implementation Review by the Office of the Controller of Budget for the FY 2021/22 before this Hon. Assembly for consideration and approval. Thank you, Hon. Speaker.

The Temporary Speaker: Thank you, Budget Chair Hon. Dominic. I now invite members to debate the motion. Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. Hon. Speaker, I will start by thanking our most able chair together with the committee for coming up with a very brief and elaborate report on these issues. Hon. Speaker we may not need to discuss much on this because the report is self-explanatory, but I have few issues that I want to share with the members.

Hon. Speaker, the issue of pending bills is becoming a thorn in the flesh and one of the reason why I am saying so, Hon. Speaker, remember these are pending bills which were incurred during the other regime not this regime and the question I am asking and I believe other members are also asking the same question, how do we measure our performance as an Assembly when it comes to the issue of pending bills? The electorate will not understand that we use the resources which are available to settle pending bills; the electorate expects to see this Assembly giving them development.

So, Hon. Speaker, what I am requesting this Hon. House and the County Executive which is in office by now, let us try as much as possible to minimize the issue of pending bills because if we give contracts without enough resources or without having proper arrangements on how to pay, we will find ourselves in the same problem we have as of now.

Hon. Speaker, when we talk of these pending bills, I know the Governor has intention to pay them, but I believe we have two types of pending bills: regular and irregular pending bills. Regular pending bills are the ones which have all the documentation and irregular are the ones that were given and whoever did the work did not even get an LSO or LPO. So, it is difficult to say that we are going to clear all the pending bills. I believe the Governor had good intentions because she formed a taskforce to work on those issues. So I wish her all the best in ensuring that we clear them so that we can move forward.

Hon. Speaker, the other issue I want to agree with the committee, the committee has recommended that we should initiate the issue of procurement in good time so that we can avoid a situation where the monies will go back after the end of the financial year. One of the challenges that make the County not to perform well on this issue has been raised in the report about the late disbursement by the National Government.

That one may not be within our control but we are also requesting the National Government, if they know Machakos requires such an amount, let us get that money in good time so that we can do what is required. In fact, the needs that we have are more than what we have. When President Obama visited Kenya, he said we are living in a world of limited resources and that is very true. The resources are few and the needs are so many. So if we can get the resources in good time, I am very sure we will be able to do what is required.

On the issue of our own source revenue, Hon. Speaker, the CEC Finance together with his team must pull up their socks so that they seal this thing we call hiatus. They must ensure that all the monies that are supposed to be paid to the County go to the County revenue account because I am very sure a very big percentage of the monies collected in the County Government does not end up in the County Treasury; it goes to the pockets of the revenue officers and that is why I am saying the CEC and Members of the Finance Committee should also assist to ensure that what is supposed to go to the County goes there.

Hon. Speaker, the bitter part of it is the issue of emergency regulation. This morning, Hon. Dominic sought for extension so that he can report to this House on the issue of regularizing this issue of Emergency. It is a pity to all of us if he had only set about Ksh. 5 million; Machakos has over 1,480,000 residents and we had only set only Ksh. 5 million. In simple translation, we had set less than Ksh. 2 for each individual in Machakos. This issue should be given the attention it deserves because nobody knows what will happen tomorrow.

Hon. Speaker, the CEC Finance should also pull up his socks to ensure this information that the Committee of Implementation is requesting, let it be availed and if not, the House will have no option. If he cannot be able to surrender that information to the Implementation Committee, then I propose we summon him to the committee of the Whole House so that he can come and face the whole House and tell us why he cannot give this information. These are not personal but county issues and there is nothing to hide.

So we do not want any particular officer, because we approved them in this House and we also have powers to recommend for their removal if they are not working, if we find an officer is not adding value to us or to the County, then the House will have no option. We will have to sit and request that the Governor discharges that particular officer but we do not want to go to that route. Let that particular officer come here and give the House the information so that we can be able to discharge our duties. Otherwise, if he does not come, the Assembly will be seen not to be doing what is required of us.

So, Hon. Speaker, I want to thank the committee and say the members of this committee spent a lot of time and energy compiling this report and I support the report. Thank you, Madam Speaker.

Hon. Temporary Speaker: Thank you so much, Hon. Minority Leader, Hon. Ndawa. I now invite the mover, Hon. Dominic Ndambuki to reply.

Hon. Dominic Ndambuki (Kathiani Central, WDM-K): Thank you, Hon. Speaker. What Hon. Ndawa has said, the report is self-explanatory and there is a need for the CECM Finance and his team to ensure that they deliver, especially on the issue of own source revenue collection so that we can see the numbers growing.

Hon. Speaker, I believe as a County, we have the potential to raise more than the figure that is given in the last financial year under review, which is Ksh. 1.118 Billion. We have a potential to raise much more than that.

Hon. Speaker, again it is my plea to the County Executive Committee to ensure that each CEC Member delivers on their part so that the absorption rate on development is higher than what is reported here. Thank you, Hon. Speaker.

Hon. Temporary Speaker: Thank you so much Chair budget.

(Question put and agreed to)

ADJOURNMENT

Hon. Temporary Speaker: The House adjourns to Wednesday, 22nd February, 2023 at 10.00 a.m.

The House rose at 3.25 p.m.