

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 22nd September, 2020

The House met at 2.40 p.m.

[The Deputy Speaker (Hon. Museku) in the Chair]

PRAYERS

NOTICE OF MOTION

ENFORCEMENT OF MACHAKOS COUNTY MANAGEMENT OF QUARRYING ACTIVITIES ACT
2016

Hon. Deputy Speaker: Under this Order, we have one business to be transacted by Hon. Josphat Kasyoki, MCA for Kyeleni.

Hon. Kasyoki: Thank you, Mr. Speaker.

Hon. Speaker, that aware that the Article 209(4) provides that the National and County Governments may impose charges for the services they provide;

Aware that paragraph 9 of the Fourth Schedule Part 2 of the Constitution provides that the County Governments have powers to implement specific National Government policies on natural resources and environmental conservation, including soil and water conservation; and forestry;

Acknowledging that the Machakos County Management of Quarrying Activities Act, 2016 was enacted by the County Assembly of Machakos to bring into effect these provisions of the Constitution;

Aware that the Act provides for the issuance and cancellation of quarrying permit; further aware that the Act provides that a person shall not undertake quarrying activities or transport quarry materials between the hours of 6.00 pm and 6.00 am and that such transportation of quarry materials should only be done through designated roads;

Noting that the quarries in Matungulu Sub-County and especially Kyeleni ward operate at night in total disregard to the Machakos County Management of Quarrying Activities Act 2016;

Aware that the County is not able to collect revenue from quarrying activities from these quarries as transportation of quarrying materials is done at night;

Hon. Speaker, I wish to give notice of the motion that the House approves that:

- a. The Department of Land and Natural Resources of the County Government of Machakos enforces Machakos County Management of Quarrying Activities Act 2016 and ensures that quarrying activities or transportation of quarry materials be done between the hours of 6.00 am and 6.00 pm and through designated roads;

- b. The Department of Finance and Revenue Collection of the County Government of Machakos collects the appropriate and applicable revenue from quarries in Matungulu Sub-County including Kyeleni Ward;
- c. The Department of Finance and Revenue Collection of the County Government of

Machakos to ensure that basic facilities like sheds and toilets are provided to the staff collecting revenue in quarries.

Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you very much, Hon. Kasyoki. Mr. Clerk, proceed.

MOTION

SURVEYING AND ESTABLISHMENT OF BOUNDARIES OF KATUNGA FOREST

Hon. Deputy Speaker: Hon. Members, we have a Motion to be moved by Hon. John Musyimi. He was not around in the morning and now you are here. Hon. Musyimi and on behalf of the House, I would like to say *pole sana* for the loss of your brother and may the Lord rest him in Peace. We are with you as an Assembly and we support you through the entire process. Thank you.

Hon. Musyimi: Thank you, Mr. Speaker.

Hon. Speaker, aware that Article 69(1)(a) of the constitution provides that the State shall ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;

Further aware that the Fourth Schedule of the Constitution mandates the County Government to address matters on Implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry;

Considering that over the last decades, there has been extensive degradation of water towers and riparian reserves due to encroachment, excisions, illegal settlements, fires and over-exploitation of resources therein;

Cognizant that the Water Towers Conservation and Coordination Policy, 2019 put in place mechanisms to coordinate, synergize and oversee the identification, protection and rehabilitation of water towers for conservation and management;

Aware that the Katunga forest in Kanzalu Hill Range that borders Mwala and Kangundo Sub-counties is a key water catchment area acting as source of water for many rivers besides its contribution in controlling global warming;

Further aware that the forest was gazetted as a water tower. Informed that the forest has been encroached by the neighbouring communities who have established settlements therein and cleared a vast acreage of the forest causing rapid erosion and affecting supply of water in the neighbouring sub counties;

Hon. Speaker, I wish to move the Motion that this Hon. House discusses and approves that the County Government of Machakos:

- i. Undertakes survey and establishes boundaries of Katunga forest in Kanzalu Hill Range;
- ii. Addresses the human conflict that has resulted from the settlement of people in the said forest reserve;
- iii. Carries out regular monitoring to ensure that no human settlement occurs in the said forest reserve;
- iv. Gazettes all the water towers within the County.

Thank you, Mr. Speaker. If you allow me, I will explain a bit on that but before I explain I wish to request Hon. Mitaa to second my motion.

Hon. Deputy Speaker: Hon. Moses Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker. I second the motion.

Hon. Deputy Speaker: Thank you. Do you have any additional item you would like to say or you are through Hon. Musyimi?

(Hon. Musyimi spoke off record)

Go ahead. I thought you would give a little bit of background on the issue, so that Members can be able to understand where you are coming from.

Hon. Musyimi: Thank you, Mr. Speaker. About Katunga forest, it is a forest within Kanzalu ranges and Mr. Speaker, that forest was there even during colonial times but nowadays, let us say about 10 years ago, people have encroached in that forest, some have made it as an agricultural activity area and others have built some structures like Churches. I even heard some people are planning to sell to others claiming that they own the land.

So, Mr. Speaker, I would like to request this Hon. House to move fast and send the committee on environment to go there and see on what is going on because if it continues as it is, we are going to spoil our environment and which will end up affecting our people. So, I request the committee of environment if you permit them to visit the area. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Musyimi and Hon. Moses for the motion and seconding of it.

(Question proposed)

Hon. Members, you may debate on the motion.

Hon. (Ms.) B. Nzioki: Point of order!

Hon. Deputy Speaker: Point of order by Hon. Betty Nzioki.

Hon. (Ms.) B. Nzioki: Thank you, Mr. Speaker. I want to stand under Standing Orders 51, 52 and 53 on amendment to this motion.

Hon. Speaker, pursuant to Standing Order 51, 52 and 53, I wish to move an amendment of the motion moved by Hon. John Musyimi, MCA Kangundo North, that this Hon. House discusses and approves that the County Government of Machakos;

1. Undertakes survey and establishes boundaries of Katunga forest in Kanzalu Hill ranges.
2. Addresses the human conflict that has resulted from the settlement of the people in the said forest reserve.
3. Carries out regular monitoring to ensure that no human settlement occurs in the said forest reserve.
4. Gazettement of all water towers within the County.

Hon. Speaker, I wish to move the amendment as follows;

That this Hon. House discusses and approves that the County Government of Machakos;

1. Undertakes survey and establishes boundaries of all forests in Machakos County namely Katunga Forest in Kanzalu Hill Ranges, Kangundo North, Katunga forest within Kambuso, and Muumoni areas of Matungulu East, Uuni Forest in Masii Ward, Kanzokea Forest in Kangundo Central and Katunga Forest in Iveti Hills.
2. Addresses the human conflict that has resulted from the settlement of the people in the said forests.
3. Carries out regular monitoring to ensure that no human settlement occurs in the said forests.
4. Gazettes all the water towers within the County including Katunga Forest in Iveti Hills.

Thank you, Mr. Speaker. I would request Hon. Masesi to second my amendment as a motion.

Hon. Deputy Speaker: Hon. Cosmus Masesi, Chairman, Health Committee, go ahead.

Hon. Masesi: Thank you, Mr. Speaker. I stand to support the motion as amended.

Hon. Deputy Speaker: Thank you. Can I have a copy of that amendment? Thank you, Hon. Members. The amendment of the motion has been allowed by the Chairman; it was presented within the regulations of our Standing Orders.

(Question, that the words to be added be added, proposed)

Any Member with an issue? Yes, Hon. Cosmas Kieti.

Hon. Kieti: Thank you, Mr. Speaker. My request is that we include all forests within Machakos County because we also have another one in Muumandu although I am not a member of that area but some time back there were some conflict in the said forest. So, we encompass all the forests within the County and also Kibauni. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Actually, Hon. Member, No. 1 is 'undertakes a survey and establishes boundaries of all forests.' So, it is covering all the forests within the County as it is. It is a good point that you have noted, it is covered by the amendment. Anybody else?

(Question, that the words to be added be added, put and agreed to)

Hon. Members, you may debate on the amended motion. Hon. Cosmus Masesi.

Hon. Masesi: Thank you, Mr. Speaker. I stand to support the motion as it has been amended which has been brought by Hon. John Nzomo Musyimi and allow me again to register condolences on behalf of Matungulu East Ward residents and say *pole sana* to Hon. John Nzomo Musyimi's family and friends and again promising that we are together all through.

Mr. Speaker, this is a timely motion; in my ward we have two forests which both carry the name of Katunga and I am very sure it is a very big piece of land but the community around has encroached, settled and some have even sold the land. This is the best thing we can offer to our people by ensuring that the County Government moves with speed and as it is put within the

motion, make sure that we undertake a survey and establish boundaries of all the forests within our County.

Mr. Speaker, these are public lands and I am always wondering how the public has the guts to encroach, do some demarcations and even sell. Even the people who buy the land buy without title deeds. So, this is very urgent and I am happy that this motion is coming and this is an issue we need to fast track and have these lands brought back to the public. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Cosmos. Hon. Moses Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker. I first want to applaud my neighbor and my senior colleague Hon. Nzomo Musyimi for finding it good to bring this motion which has been long overdue. I also want to appreciate Hon. Betty Nzioki for amending the motion so that it captures the wider Machakos County and I believe it will both serve the interests of Hon. Nzomo Musyimi and interest of Hon. Betty Nzioki among others.

Hon. Speaker, last week if I remember very well there was a report by the environment committee and issues related to forest across Machakos County arose and I want to believe that this is an extension of that report because some of the issues which we raised will be solved from this motion.

Hon. Speaker, as I said last week if I remember very well, recently although I cannot remember the date some of the forests were gazetted as water catchment areas and I was very clear that from my Ward, Kanzokea forest though that time I was missing the name Katunga and my neighbor was seated outside I was not sure whether it was Katunga or Kanzalu because.....I think Katunga is a general name because I think even within Kathiani there is also Katunga forest, so I was not very sure but I stated Kanzalu and it is the same forest which my colleague has brought the motion to this House.

Hon. Speaker, the current status of our forest is serious; there is so much deforestation, encroachment and a lot of things like burning of charcoal. Kanzokea being an example, last week on Friday there was fire, in same forest last month but one there was fire and this is because people are going and burning charcoal and you know with the current climate is very easy for a fire to spread. You go to that forest and you cannot tell where the border is. So, we need now that this issue is under our County Government, we need these forests to have beacons.

Those who are able or that community which is able to put fence they put fence in their forests because we also need to do reforestation. Hon. Speaker, as you know there is a program, which has come, and it is a donor-funded program, and like what we want to do with Kanzokea. We want to involve people who have seedlings around that area being engaged so that we do re-forestation to that forest, Hon. Speaker, and we cannot do that when we don't know the extension of the forests. We need to know the boarder.

Secondly, most of our wards are hilly so when we have deforestation and it rains, there is so much soil erosion, there is so much damage because of rain storms when it rains and you know the work of trees is to protect the environment. So before we wait until its late, we have generations behind us and we need to protect this forest so that now the generations, which are behind us, will find something to talk about.

So, Hon. Speaker, I support and once again I thank both Members for the noble motion they have brought to this House and I hope the committee on environment and the chairman is here a very good friend of mine, I hope they will act immediately because we need these things being done like yesterday. Thank you, Hon Speaker.

Hon. Deputy Speaker: Thank you. Hon. Peter Joseph Mutiso.

Hon. PJ. Mutiso: Thank you, Mr. Speaker. As I stand to support the motion, I want to add something I do not want to repeat what has been said. Mr. Speaker, I think there is another forest,

called Kusyomuomo and it belongs to this County but I think people have encroached to that area because it is bordering Katunga forest. First of all, I thank God because of sometimes members you know what happened; I and Hon. Speaker we went there and people were clearing everything. The forest is about 34 acres or thereabout and we stopped that because many of the people were going there doing funny things and even farming.

So, we must take care of our land, Mr. Speaker, and if possible we take care also not only the forest but also the land that belongs to this county because for example, here in Machakos town, I have no ward office and there is plenty of land in this area whereby people have encroached and grabbed all land that belonged to this County. Not only here in Machakos town but else where Mr. Speaker, so we must take care of our land because there is scarcity of land and all people are coming to Ukambani because of land from other parts of the country and I don't know the reason as to why they are doing that but maybe unless we as leaders we come up and protect our land, it will be taken by those people.

So what I can add is that they had even gone to take also *mathembo* (shrines) where people have gather and already we have one at Kalama which has already been grabbed and also if I can give an example of land which was taken but I don't know whether they have documents. If you go across the road, there was a big tree there and that was *Ithembo* but it was taken by these land grabbers and belongs to this County.

So, Mr. speaker if I can say we must take care of our land and we need also to know all inventories in as far as land is concerned for the whole County because I went with you at Muumandu where there is another forest there and we found that people had been farming and doing funny things in those areas.

So, Mr. Speaker, if I can add we must take care of our land and know all the inventories because there was a time during the time of transition, I don't know whether they gave the list of all land in this County because it was done but I have never heard of any list or any information that was given during the transition period. So, Mr. Speaker if that can be taken care it can be good for us and for this County. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Betty Nzioki.

Hon. (Ms.) B. Nzioki: Thank you, Mr. Speaker. Hon. Speaker, I want to be specific concerning this motion which is touching the whole Machakos County. I want to speak about Uuni forest which is in Masii ward. I want to say that the forest, in early 80s used to be well taken care of. I can remember that time the late former President of this country, Daniel Toroitich arap Moi came to Uuni forest where he did planting of the trees. I want to tell you Hon. Speaker, if today you visit that forest, deforestation has been done in that forest; cutting of trees, burning of charcoal and even to make the matter worse, there are people who have settled in that forest.

Hon. Speaker, it is my concern because when we are not conserving the environment, then let us not expect good rainfall within our locality. So, Hon. Speaker, I would request this Hon. House, through the Chair Environment Committee to move with speed and do what is supposed to be done so that we can get the report and we chart the way forward so that the executive or else our county can take the responsibility that they are supposed to take so that we can take care of our environment.

So, Hon. Speaker, I firmly stand and support this motion because nowadays environment is wanting and without a good environment, Hon. Speaker, we will lack a lot even in terms of rain and even in terms of harvesting and cultivating. So, Hon. Speaker, I stand fully to support this motion. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Dominic.

Hon. Ndambuki: Thank you, Hon Speaker. Hon. Speaker, I wish to applaud the two members who have introduced this motion, first Hon. John Musyimi and then the other member Hon. Betty Nzioki who amended the motion. Hon. Speaker, it is very clear that the importance of a healthy eco-system cannot be underscored any further because Hon Speaker, forests being part of the larger ecosystem play important roles in our lives. Hon. Speaker, majorly being water towers. Machakos County is part of the counties that are grouped as ASALs part of semi-arid areas in Kenya and we need to conserve the forests that we have so that we can be able to have water and water in plenty.

If the recent activities we have witnessed in Kenya are anything to go by; take for example, the Mau forest complex, that has been brought down by human activity and just now Hon. Betty has just mentioned Uuni forest that the committee of justice late last year visited that area to look at the issue and to address the issue of between local residents and KFS. The immediate community members have been having a conflict with Kenya Forest Service where they have cut down all the trees and invaded the forestland and made it a grazing ground.

Hon. Speaker, that is a replication of what is happening in other areas; if we visit Katunga forest, which is in Iveti hills the same is happening. You will find that there are people who come at night and log trees looking for firewood or getting logs to cut timber. These are activities which are degrading our environment. It calls for a better approach by the Kenya Forest Service and other concerned agencies of the government to work together with other stakeholders say for example, the immediate community members and there is an organization that they have that is called CFA (Community Forest Association). We need to have that strengthened so that those members of public living next to forest complex can be educated about the importance of conserving the forest and how to avoid conflicts.

Also, Hon. Speaker, there is another key stakeholder that should be involved when we are talking about conservation of the forest complex and that we have, that is Kenya Wildlife Service (KWS). We are having wild animals living in those forests and if KFS and KWS synergize their efforts then the resources that they have can be used better to protect the animals that are living in the forests and have the forest land protected.

That could be one source of revenue for the County Governments and the National Government where take for example, if KFS Machakos branch works hand in hand with KWS, Machakos branch, and protect Katunga forest in Iveti hills where we have wild deer, and other small animals that are there, we can be able to drive traffic for local tourism to that area and what is will happen is, in the immediate term, you will see the economy of the area surrounding the forest starting to grow where small scale business people will be able to sell some wares to those visiting the forest to perhaps practice domestic tourism.

Further, Hon. Speaker, those forests also could be point where people can have picnic; we can have picnic sites because there are good sceneries where people can come relax and even hold some functions there. Hon. Speaker, if the government tries to engage other key stakeholders, then they can be able to turn the forest areas that are being protected into a better and more useful ways that could generate income as we conserve them and make them water towers we also generate income to the County Government we have and to the National Government. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Cosmus Kieti.

Hon. Kieti: Thank you, Mr. Speaker. Mr. Speaker, I just want to congratulate Hon. Musyimi and Hon. Betty for the motion that they have brought to this House and I want to support that motion. In fact, I am one of the beneficiaries of those forests because most of the rivers; we have river Wethanga that comes from Mbuuni, we have river Thwake that draws its water from Kanzalu in Kangundo and Matungulu. And we have river Manthi that draws water from Iveti hills.

So my people are big beneficiaries of these forests that is why I stand firmly to support that this forest needs to be protected, they need to be demarcated because a forest is a natural resource and it is one of the resources that harbour many other resources. We have wild fruits that are a source of food, fuel, water and there are so many things that you can get from a forest. That is why we need to protect the little that we have.

Mr. Speaker, we also need some guidance because sometimes back we also talked about protecting our forests and it seems there is conflict of interest whether the forest belongs to the counties or there is a National Government that is in charge of them. About demarcation, I think the County Government can do that but what about the issue about protecting the cutting down of trees and encroaching into the forest? Mr. Speaker, we seek the guidance because there might be some conflict of interest from different authorities and there might someone who is sitting on his job expecting the other one not to see what is happening.

Mr. Speaker, I strongly support that we protect our forests and that we need them demarcated. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Cosmus Kieti. Is there any Member on the outside chamber who would like to contribute on this motion? That is the Hon.... Is the Hon. Member contributing or?

Hon. Members: No.

Hon. Deputy Speaker: Okay Hon. Daniel Kiilu is not contributing and that is okay. May I ask the mover of the motion to respond please? Hon. Musyimi.

Hon. Musyimi: Thank you, Mr. Speaker. First, I would like to say that I have no objection of the amendment which was sought by Hon. Betty, so Mr. Speaker, I accept the amendment but only that I request this Hon. House not to lose focus on what was my idea that we move with speed and see the problems which are developing in those forests. Mr. Speaker, one thing I know about those forests is that earlier or there before there used to be watchmen to manage the forests and to hinder the people cutting the trees but nowadays those watchmen are not paid by the County Government. Most of them claim they have arrears of their salaries accruing for more than two years I can say or either several months.

So Mr. Speaker, the security to secure those forests is not there and if we want to maintain the forest in good status we must make sure those watchmen are there and be paid because they are working for the County Government. So, Mr. Speaker, with due respect I settle my word after that and request that the County Government or this Hon. House to order the committee on environment to visit those forests and secure the situation.

Before I sit down, I would like also to take this opportunity to thank you Members because you have accepted my motion. Secondly, I would like to invite you at our family homestead for the burial of my brother whom we will bury on 25th this month; that will be next Friday. So, Members welcome to Musyimi family home. Thank you, Mr. Speaker.

(Applause)

Hon. Deputy Speaker: Thank you, Hon. Musyimi.

(Question put and agreed to)

Hon. Members, just to highlight one or two things; first of all Hon. Kieti asked about who has responsibility over what. The Constitution of Kenya the Forth Schedule part 2, Item 10 says the

County Government has the responsibility to implement specific National Government policies on natural resources and environmental conservation including;

- a) Soil and water conservation and
- b) Forestry.

So it is within the mandate of the County Government to implement policies which have been enacted by the National Government in as far as forestry is concerned.

One thing which I have noted which is also bringing much of these problems is that plantation farming when Kenya Forest Service undertakes the so called plantation farming where they tender out the forests after some time to individuals who come and clear the forest and sell timber with very little benefit to the local residents of that area, that is what has led to much of these ills of deforestation and encroachment because it is the feeling of the people that they are not being involved in the process. They are only seeing people coming from outside and harvesting.

The reason why I am happy also as a member coming from Iveti hills that we need to gazette because remember immediately they are gazetted as water towers then they come out from the plantation and the Kenya Forest Service cannot be able to tender those forests which are there. We should also ensure that they plant indigenous trees which conserve the environment and bring any of the foreign plantation-based trees like pine and cypress which are meant for timber and which do very little in as far as water conservation is concerned.

I happen to have done some research on these; the forests which have been named here or which have been gazetted here the total land area of Machakos is 620,628 acres is what we have as the total land area of Machakos in acres. 10 percent of that is actually 620.8 acres. All the forests that you have referred to as Katunga forest, Machakos which were done during the colonial time were occupying 600 acres which the aim was to achieve the 10 percent forest cover.

The colonial government even at that time aimed at achieving 10 percent of forest cover so if we can be able to maintained them as it is then it will be easier for us to be able to maintain the 10 percent forest a required by law.

ADJOURNMENT

So, Hon. Members with that the House stands adjourned to meet again on Tuesday, the 29th of September, 2020 at 10.00 aT in Kyeleni ward. Remember we are going for *Bunge Mashinani* so we will be meeting; the House will be sitting on the 29th of September, 2020 at 10.00 a.m. in Kyeleni ward. Enjoy the rest of your evening. The motion which I have just read I am just seeing this, I have not committed it. It needs to be committed to the committee of Environment, Energy, Lands and Natural Resources. Hon. Kisini is the docket and to bring a report to the House within 30 days. Hon. Kisini, report within 30 days.

The House rose at 3.25 p.m.