

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 25th April, 2023

The House met at 10.25 a.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

CHIEF OFFICER NOMINEE

Hon. Speaker: Good morning Hon. Members. I have this communication to make on correction of the Governor's message on nominees for the Chief Officers. Hon. Members, you recall on Tuesday, the 18th day of April, 2023, I did convey a message from Her Excellency Hon. Wavinya Ndeti on nominees for Chief Officers to various departments pursuant to Standing Order 39. However, I wish to make this correction that Ms. Benedette Wavinya Mutiso Kyania is the Chief Officer nominee for Public Participation, Citizen Engagement and Customer Service and not Citizen Management and Customer Care as earlier communicated. Thank you, Hon. Members.

PAPERS LAID

REPORTS OF THE AUDITOR GENERAL

Hon. Speaker: May I call upon Hon. Nicholas Nzioka to lay the Paper

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Hon. Speaker I beg to lay the following Paper on the Table of the Assembly today, Tuesday, the 25th day of April, 2023:

- i. Report of the Auditor General on Machakos County Bursary Fund for the year ended 30th June, 2022
- ii. Report of the Auditor General on Machakos County Executive Committee and Chief Officer's car loan and mortgage scheme for the year ended 30th June, 2022.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. The two Papers are committed to the Public Accounts and Investments committee. May I again call upon Hon. Francis Kitaka to lay another Paper.

**RECEIVER OF REVENUE HALF YEAR
FINANCIAL STATEMENTS FOR FY 2022/2023**

Hon. Francis Kitaka (Ndalani, WDM-K): Hon. Speaker, I wish to lay the following Paper on the Table of the Assembly today, Tuesday, the 25th day of April, 2023: Report of Finance and

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, County Assembly of Machakos.*

Revenue Collection Committee on the Machakos County receiver of revenue Half Year Financial statements for FY 2022/2023. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. May I call upon Hon. Grace Bahati to lay yet another Paper?

NOMINEES TO THE WARD BURSARY COMMITTEES

Hon. Grace Bahati (Kyeleni, IND): Hon. Speaker, I beg to lay the following Paper on the Table of the Assembly today, 25th April, 2023; Report of Education and Social Services committee on consideration of nominees to the Ward Bursary Committees. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member.

(The Papers were laid on the Table)

NOTICES OF MOTION RECEIVER OF REVENUE HALF YEAR FINANCIAL STATEMENTS FOR FY 2022/2023

Hon. Speaker: May I call upon Hon. Francis Kitaka to give a notice of motion.

Hon. Francis Kitaka (Ndalani, WDM-K): Thank you, Madam Speaker

Hon. Speaker, that aware THAT Article 185(3) of the Constitution of Kenya provides that a County Assembly while respecting the principles of separation of powers, may exercise oversight over the County Executive Committee and any other County Executive organ;

Aware THAT Standing Order 190(5) provides for the mandate of a sectoral committee to include among others studying, assessing and analyzing the relative success of the Departments as measured by results obtained as compared with the stated objectives and making reports and recommendations as often as possible including recommendation of proposed legislation;

Further aware THAT the Second Schedule of the Standing Orders mandates the Finance and Revenue Collection Committee to consider all matters relating to the management of county public finance and revenue collection and noting that the Department of Finance, Economic Planning and Revenue Management submitted a report on receiver of revenue for the second quarter for financial 2022/2023 pursuant to section 166 of the Public Finance Management Act, 2012;

Aware THAT the report was committed to the Finance and Revenue Collection Committee for consideration and aware that the Committee has compiled a report;

Hon. Speaker, I wish to give notice of the motion THAT this Hon. House discusses and approves the Report of Finance and Revenue Collection Committee on receiver of revenue for the 2nd quarter of the financial year 2022/2023 for consideration and adoption.

Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Member, may I also call upon Hon. Grace Bahati to give another notice of motion.

NOMINEES TO THE WARD BURSARY COMMITTEES

Hon. Grace Bahati (Kyeleni, IND): Thank you, Madam Speaker.

Hon. Speaker, that aware THAT the purpose of the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019 is to provide financial assistance to the needy students and aware that Regulation 11(1) establishes the Ward Bursary Committee consisting of:

- a) One person with at least a diploma in the relevant field, with experience in matters relating to education who has ordinarily been residing in the Ward for at least five years preceding the appointment and who shall be the Chairperson;
- b) The Ward Administrator;
- c) The County officer from the Education Department and who is responsible for matters relating to education in the Ward and who shall be the secretary of the Committee and an ex-officio member with no voting rights;
- d) A woman and a man who have ordinarily been residing in the County for at least five years preceding the appointment with experience in public administration, education, public affairs or management;

Aware THAT Regulation 11(3) confers the County Executive Committee member with powers to forward the nominees for the Ward Bursary Committee to the County Assembly for consideration and approval and further aware that the said nominees were forwarded vide a letter dated 17th March, 2023;

Acknowledging THAT the forwarded nominees were committed to the Committee on Education and Social Services and aware that the Committee scrutinized the forwarded documents in line with Regulation 11(2)(a) and (d);

Hon. Speaker i wish to give a notice of motion THAT, this House approves the Report of Education and Social Services Committee on consideration of nominees to the Ward Bursary Committees.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member.

STATEMENT

BUSINESS FOR THE HOUSE FOR 25TH AND 26TH APRIL, 2023

Hon. Speaker: May I call upon Hon. Nicholas Nzioka to give the statement.

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

Hon. Speaker, the House Business Committee met on Monday, 24th April, 2023 to prioritize business for the House as forwarded by Committees and Hon. Members, pursuant to the provisions of Standing Order 151(6)(d). The Committee balloted business as follows:

Tuesday, 25th April, 2023
Morning at 10.00 a.m.

- a) Response on a statement sought on the status of Revenue Collection and Measures put in place to achieve maximum revenue by Hon. Francis Kitaka, Chairperson, Committee on Finance and Revenue Collection.
- b) Report on the enquiry of Kithimani Jaw Crusher by Hon. Peter Kilonzo, Chairperson, Justice and Legal Affairs Committee.

Afternoon at 2.30 p.m.

- a) Response on statement sought on status of Kola Level 3 Health facility by Hon. Vincent Mutie, Chairperson Health and Emergency Services Committee.
- b) Report of the consideration of nominees to the Ward Bursary Committees by Hon. Grace Bahati, Chairperson, Education and Social Services Committee.

Wednesday, 26th April, 2023

Morning at 10.00 a.m.

- a) Response on statement sought on implementation status of Locust Donor Funds and Kwakatusya Dam in Mbiuni Ward by Hon. Charles Mbuva, Chairperson, Committee on Agriculture.
- b) Report of County receiver of revenue for half year for financial year 2022/23 by Hon. Francis Kitaka, Chairperson, Committee on Finance, Economic Planning and Revenue Collection.

Afternoon at 2.30 p.m.

- a) Motion on Tree Planting by Hon. Catherine Kyee, Special Elect MCA.
- b) Response on statement sought on status of implementation of the Machakos County Cooperative Enterprise Development Fund Act, 2021 by Hon. Charles Mbuva, Chairperson, Committee on Agriculture.
- c) Adjournment of the House by Hon. Nicholas Nzioka, Leader of Majority Party.

Thank you, Madam Speaker.

Hon. Speaker: May I now call upon Hon. Francis Kitaka to come and make a statement.

STATEMENT REPLY
STATUS OF REVENUE COLLECTION AND
MEASURES TO ACHIEVE MAXIMUM REVENUE

Hon. Francis Kitaka (Ndalani, WDM-K): Thank you, Madam Speaker. I would request that we defer the Statement response because the Hon. Member who requested it is not in the House.

Hon Speaker: Thank you, Hon. Member. The statement can be deferred. Thank you.

(Statement deferred)

MOTION
REPORT ON INQUIRY OF KITHIMANI JAW CRUSHER

Hon. Speaker: May I call upon Hon. Helen Ndeti to come and move the motion on behalf of Hon. Peter Kilonzo.

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

Hon. Speaker, that aware THAT, Article 42 of the Constitution of Kenya provides that every person has the right to a clean and healthy environment, which includes the right

(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and

(b) to have obligations relating to the environment fulfilled under Article 70;

Informed THAT in order to achieve economic development goals while safeguarding environmental integrity, the Kenya Government has put in place the Environmental Management and Coordination Act (EMCA), 1999 to coordinate environmental activities in the Country;

Hon. Speaker, aware THAT the Justice and Legal Affairs Committee conducted an inquiry on the operations of the Kithimani Jaw Crusher and its effects on the Environment and consequently compiled a report;

Hon. Speaker, I wish to move the Motion THAT this Hon. House discusses and approves the report of the Justice and Legal Affairs Committee on an inquiry into the Kithimani Jaw Crusher.

I call upon Mheshimiwa Farhiya to second the motion.

Hon. Speaker: Mheshimiwa Farhiya.

Hon. Farhiya Haji (Nominated, WDM-K) seconded.

(Question proposed)

Hon. Speaker: I invite Members to debate this but before so, I wish to call upon Hon. Ndeti to give us highlights on the report. Hon. Ndeti.

Hon. Helen Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. Hon. Speaker, the vision contained in the Machakos Integrated Development Plan is to be a globally competitive investment hub that ensures optimal utilization of resources, social and economic sustainability for the prosperity of all and wealth creation. Some of the development proposals for the department of Trade, Planning And Industrialization is to install stone crusher machines in Yatta Sub County which is endowed with vast land full of dolomite.

Hon. Speaker, crushed stones also referred to as aggregates, are the fundamental components of contemporary construction projects. The utilization of massive, pricey, and centrally located crushing plants, which are out of the price range of small-scale business owners, characterizes the present techniques for crushing stones to make aggregates. However, because these centralized operations are frequently too far from the location where aggregates are used, the price of such materials is excessively high. On the other hand, physical hammer and anvil stone crushing is a common technique, particularly in rural areas.

Hon. Speaker, despite the fact that the procedure is risky, time-consuming, and barely profitable, it is widespread in Kenya. The production of crushed stones in a range of sizes based on the machinery used in the industry is significant since it provides the raw materials for several

construction projects like the development of roads, structures, and canals, among others. It is important to remember that quarrying is a necessary economic activity that is also risky.

Establishment and Mandate of the Committee

The Sectoral Committee on Justice and Legal Affairs is established under Standing Order 190 of the Machakos County Assembly Standing Orders. Its mandate, pursuant to the Standing Order 190 (5) is to:

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned departments;
- b) Study the programme and policy objectives of departments and the effectiveness of their implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e) Investigate and inquire into all matters relating to the assigned departments as may be deemed necessary, and as may be referred to them by the Assembly;
- f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 184 (*Committee on appointments*); and
- g) Make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with the Second Schedule of the Standing Orders, the Committee is further mandated to consider matters related to constitutional affairs, the administration of Law and justice, including the elections, ethics, integrity and anti-corruption, and human rights.

Committee Membership

The Committee on Justice and Legal Affairs comprises of the following members: -

1. Hon. Peter Kilonzo - Chairperson
2. Hon. Hellen Ndeti - V/ Chairperson
3. Hon. Paul Wambua
4. Hon. Joseph Mulinge
5. Hon. Caroline Mutuku
6. Hon. Johana Munyao
7. Hon. Dominic Ndambuki
8. Hon. Vincent Mutie
9. Hon. Joshua Mwonga
10. Hon. Grace Bahati
11. Hon. Aliphonce Mutinda
12. Hon. Ruth Wanjiru
13. Hon. Farhiya Abdi

Committee Secretariat

The Committee is facilitated by the following members of the secretariat: -

1. Ms. Mercy Ndambuki -Clerk Assistant

- | | |
|------------------------|-------------------|
| 2. Ms. Loise Kithuka | -Clerk Assistant |
| 3. Ms. Mwikali Mwaniki | -Hansard Reporter |
| 4. Mr. Joel Kiptum | -Serjeant at Arms |

Legal Framework on Environmental Matters
The Constitution of Kenya, 2010

Article 70 (1) states that, if a person alleges that a right to a clean and healthy environment recognized and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

The Mining Act No. 12 of 2016

The purpose of the Act is to give effect to Articles 60, 62 (1)(f), 66 (2), 69 and 71 of the Constitution in as far as they apply to minerals; provide for prospecting, mining, processing, refining, treatment, transport and any dealings in minerals. The Act further mandates the Cabinet Secretary responsible for Mining and Minerals Sector to make Regulations necessary or convenient for the proper administration and implementation of the law.

Mining (Dealings in Minerals) Regulations, 2017

These Regulations are to apply to the export of a mineral by a holder of a mining right; the removal of minerals by a holder of a mineral right for the purposes of sampling, assay or analysis; the holder of a mineral dealer's license or dealer's permit; and the import of any mineral. However, these Regulations do not apply to the export and import of rough diamonds.

Mining (License and Permit) Regulations, 2017

The Mining (license and permit) Regulations 2017 (Clause 4) provides that all applications for mineral rights shall be made through the On-Line Mining Cadastre (OMC) in order for them to be considered for grant. It is a commendable step that these Regulations seek to regulate, inter alia, small-scale mining or artisanal mining operations in line with the Mining Act 2016, by granting permits. However, there is a need to ensure that the same are not used as a political tool in awarding permits for corrupt dealings in artisanal mining activities.

Environmental Policy

Hon. Speaker, in order to achieve economic development goals while safeguarding environmental integrity, the Kenya Government has put in place the Environmental Management and Coordination Act (EMCA), 1999 to coordinate environmental activities in the Country. The broad objectives of the national environmental policy include the optimal use of natural resources while improving environmental quality and conserving natural resources for both present and future generations.

Background Information

Hon. Speaker, the then Kithimani ward Members of County Assembly informed the house that a jaw crusher had been installed, which was unsafe, harmful, and dangerous for the locals. The matter was referred to the committee on Environment, Lands, Energy and Natural Resources, which gathered all the necessary information and presented a report on the floor of the House. In its recommendations, the committee strictly insisted on the closure of the jaw crusher. The report, detailing the effects of the Kithimani jaw crusher on the locals, as well spelt out in the committee's

recommendations, was forwarded to the Chief Officer, Department Trade, Planning, And Industrialization at the time for implementation.

Hon. Speaker, in the year 2020, residents of the villages of Utithini, Kyumbuni, and Kamunyu in Kithimani ward submitted a fresh petition to the Assembly, requesting the County Assembly to look into the issues raised by the area residents. They complained that the emissions from the jaw crusher pose health risks to the community by causing respiratory illnesses, dust that impairs visibility, reduced plant growth, and wall cracking as a result of the impact of sound waves, among other things.

Hon. Speaker, the residents claimed in their petition that attempts to have the issues resolved and the Kithimani crusher shut down as well as the proprietor being advised by the National Environment Management Authority (NEMA) to relocate the establishment to a more suitable place where there can be minimal and environmental health impact, had not been adhered to because the crusher was still in operation. In the petition, the petitioners prayed that the Assembly acts and shuts down the Kithimani crusher so that the neighborhood would not be negatively impacted by its operation.

Hon. Speaker, the petition was presented to the House and committed to the Justice and Legal Affairs Committee, which opted to meet with the locals first to hear their complaints. However, COVID-19 checked in just as the committee was about to meet with the management, at the jaw crusher resulting to a postponement of the same.

Hon. Speaker, the committee visited the factory site in early 2021 and spoke with the production manager, who informed them that the company has all the necessary paperwork to operate the jaw crusher. Upon the committee's request to inspect the paperwork, they were informed that the secretary had locked the documents but promised to share all the documents via email before end of the same week to which they did not honor their word.

Hon. Speaker, time lapsed and the Assembly went for *sine die* recess before the matter was concluded. During the Third Assembly the agenda was re-introduced as part of pending work from the Second Assembly committee on Justice and Legal Affairs. This time round, it was to be dealt with as an inquiry and not as a petition, because according to Standing Order 201 (2), the petition's deadline had lapsed.

Committee Preparation for the Inquiry

Hon. Speaker, during a meeting held on 7th February 2023, the committee decided to look into the Kithimani Ward ballast plant and invited the County Executive Committee member (CECM) for Environment for a meeting to discuss the status of the plant. Additionally, the CECM was required to inform the Committee whether or not the jaw crusher facility was still in use and, if so, if it was operating within the law.

Submissions by the Chief Officer, Environment

Hon Speaker, on 21st February 2023, the committee met with the Chief Officer, Environment, who briefed the committee on complaints by the community about the crusher in 2020. The Department had visited the area and given the owner/s of the jaw crusher conditions for them to operate, which they were unable to adhere to, leading to its indefinite closure. The committee was also informed that the owner had obtained a business permit from the County Government of Machakos in 2020 to operate.

Hon Speaker, the issue of the site being in operation on and off was established through the Ward administrator. Further, the Chief Officer, Environment reported to the committee that as far as the County Government was concerned, the factory was last in operation in 2021. It was also stated that any operations that might have been done after 2021 were illegal. The Committee was also

informed that the Department had never received any complaints after its closure in 2021 and it was regrettable that any unwarranted occurrences were not reported.

Hon Speaker, the committee was also assured by the Chief Officer, Environment that similar occurrences will not happen in Machakos because necessary measures have been put in place to control such. However, the Chief Officer informed the Committee that the County Assembly had passed The Machakos County Management of Quarrying Activities Act, 2016 (Annexure I) and some sections of the Act were quashed at the Mavoko Law Courts through a Constitutional Petition No. 4 of 2020 (Annexure II).

Committee Site Visit to the Jaw Crusher

Hon Speaker, on 16th March 2023, the committee conducted a site visit to the Kithimani jaw crusher to ascertain the status as reported by the Chief Officer, Department of Environment and Climate Change. The Committee is pleased to report that the jaw crusher was moved as was evident with the demolition of the facility offices and the processing plant (the jaw crusher). During the site visit, the committee had an opportunity to speak to the residents neighboring the plant who revealed that the crusher had not been in operation for the past one year.

Committee Observations

Hon Speaker, the Committee observed the following:

1. That the jaw crusher plant had been closing and re-opening but for the past one year it has not been in operation.
2. That the County does not have laws that regulate quarrying activities.
3. That the license that had been issued to the former owner of the crusher had expired in 2021 and any other operations after expiry was an illegality.

Committee Recommendations

Hon Speaker, considering the gravity of the matter at hand the Committee recommends the following:

1. That in case a different person decided to open a similar business, they will have to submit all the required documents before opening any including the former proprietor.
2. There is need to carry out public participation in future before such activities are licensed to operate
3. There is a need to have a law in form of Machakos County quarrying Act in place to regulate quarrying activities within the county and to ensure the safety of the residents as well as the environment.
4. To ensure that appropriate documents are available and regulations are put in place enforcing the National Mining laws, with regard to dealing with a similar project.

Conclusion and Acknowledgement

Hon. Speaker, the Justice and Legal Affairs Committee appreciates the assistance provided by the office of the Speaker and the Clerk of the County Assembly during preparation of this report. I would like to express my gratitude to the Hon. Members of the Committee who gave their time and shared their expertise in drafting this report.

Hon. Speaker, it is thus my duty and privilege, on behalf of the Justice and Legal Affairs Committee to table this report to this Hon. House for consideration and adoption. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Ndeti. I now invite members to debate this motion. The floor is yours, members. Majority Leader.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I don't have much to say but I think the committee did a very good job in pursuing this matter to some logical conclusion. The fact that the crusher is no longer working, maybe it is the work of the committee that has forced the different players to conclude that it is no longer viable because issues to do with environment affects our health, affects our development.

Even though when opening a commercial venture of this nature we have very different players within the government set up issuing different licenses like the Ministry of Mining and the Ministry of Environment it is incumbent on the County Government of Machakos to issue the final business operating license, the single business license.

So, it is important that when all is said and done, the relevant department while issuing the final license should ensure that all necessary measures are put in place for those who want to open such ventures in the future, like issues to do with air pollution, issues to do with noise pollution, issues to do with the general welfare of the workers who will be working in those factories.

I want to say while we are doing an investment, it is also very important to take care of our environment and our people, but I think the committee did a very wonderful job. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Member. Hon Brian Kisila.

Hon. Brian Kisila (Makuatno/Mwala, MCCP): Thank you, Madam Speaker. I think the committee did a very good job. I am a member of that area and this crusher was very problematic to the locals and the fact that they knew the Assembly was involved, I think that is the reason they got scared and took off.

Madam Speaker, on the same basis, I wish the committee can also look at the Mavoko area. We have a lot of properties that are cracking because of somebody's crusher and some people who are also mining in that area. So, Madam Speaker, it is very unfortunate that people can come to our county and they have to relocate to other areas and they don't invest in our county because of some businessmen who don't take into consideration the environment. So, the committee did a very good job and I wish they can do the same for the Mavoko area.

Madam Speaker, I would like to apologize for coming a bit late. I had an emergency and there was a statement that I had sought. I pray that you can allow *Mheshimiwa* Kitaka to respond after this motion. Thank you.

Hon. Speaker: Thank you, Hon Member. Thank you for that good input. Yes, that statement was deferred because you were away. We can allow that the same to be done after this motion is concluded. Do we have more members debating on this matter? Hon. Paul.

Hon. Paul Muli (Kithimani, MCCP): Thank you, Madam Speaker. I am the one who represents the area in which the crusher was installed, that is Kithimani Ward. Mine is to confirm to this House that the crusher was removed back in 2021 and I want to add another input. When doing public participation, concerning this business, they should involve the residents where the crusher is to be installed.

They should not import people from other areas to come and do public participation. I want to congratulate the committee of Legal and Justice Affairs. They did a good job; even the petitioners on the crusher did a good job. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Member. May I call upon Hon. Helen Ndeti to come and reply?

Hon. Helen Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. I wish also to thank all the members who have contributed and who have listened to this matter which has now been brought to a conclusion. But some of our conclusions need to be followed; I think the County should come up with a law to regulate quarrying. It is not only the Kithimani people who are suffering.

I remember in the last Assembly, I brought in a motion because residents of Kinanie ward in Mavoko were suffering because of too many quarrying activities across the river which were causing their very expensive houses to be damaged, cracking and a lot of noise. Animals were also dying because of dust, eating leaves that have dust and people were also developing upper respiratory diseases.

It seems like this is a menace in our county and it is high time the county does some regulation that will ensure that public participation is done before such an activity is started. Thank you, Members. I appreciate you.

Hon. Speaker: Thank you, Hon Ndeti.

(Question put and agreed to)

Hon. Speaker: At this point, I want to allow Hon Francis Kitaka to give the response to Hon Kisila.

STATEMENT REPLY STATUS OF REVENUE COLLECTION AND MEASURES TO ACHIEVE MAXIMUM REVENUE

Hon. Francis Kitaka (Ndalani, WDM-K): Thank you, Madam Speaker. Hon. Speaker, Standing Order 41(3) provides that where a member requests for a statement from the Committee Chairperson relating to matters under the mandate of the Committee, the Speaker may either appoint a day for the statement or direct that the statement be issued on the same day, and the statement sought must be restricted to matters within the mandate of the Committee and which have been exhaustively dealt with and concluded by the Committee or where the Chairperson is authorized by members to issue preliminary reports to the House.

Hon. Speaker, a Statement on the Status of Revenue Collection and measures put in place to achieve maximum Revenue for Machakos County was sought in this Hon. House on 14th March, 2023 by Hon. Brian Kisila, MCA Makutano/Mwala Ward. The Statement was committed to the Finance and Revenue Collection Committee to report on or before 4th April, 2023. The Committee was not able to report on the said date because the House had adjourned to 18th April, 2023. The Committee, through a letter Ref: MKSCA/PCS/CMM/ERCNOL.8/63 dated 16th March, 2023, engaged the Department of Finance and Revenue Management and the response is as follows:-

Hon. Speaker, in their response, the Directorate of Revenue Collection committed to undertake its responsibilities with the weight it deserves and has made the following measures regarding our inquiry:

On strategies to be employed by the Department of Finance, Economic Planning and Revenue Management to enhance revenue collection, the department responded as below:

- a) Full automation of all revenue streams for a cashless collection system.
- b) Continuous mapping and review of available revenue streams in collaboration with state and non-state actors. There is planned mapping exercise for the County revenue streams in the FY 2022-2023 as observed in the recent tender advertisement dated Wednesday, 8th March, 2023 in the Nation Newspaper. The mapping program is also captured in the Third Generation CIDP where mid and end-term review of the same will be conducted. The mapping exercise will enable the County to have all data set pertaining to revenue streams and their full potential and also develop a database of all the stakeholders for informed planning in the Department and the entire County.
- c) Amendment of the Finance Bill through the County Assembly to conform to the adverse economic times and the Governor's Manifesto.
- d) Disposal of non-serviceable assets as per the laid down laws and regulations.
- e) Planned recruitment of additional revenue officers to man all revenue streams and County entry and exit points with ease. The department has identified all escape routes and manned them to seal revenue loopholes. This will ensure the County exploits all existing revenue streams.
- f) Enhancement and enforcement of all the revenue related laws into the Finance Bill and/or Act like Liquor Licensing Act, Sand Harvesting Act, Trade Licensing Act and many more.
- g) Collaboration with the lands department to fast-track valuation roll exercise.
- h) Inclusion of performance appraisal system with incentives in the revenue management department for exemplary performance.
- i) Regular accounting to rate payers to demonstrate linkage between revenue collected and public services delivered.
- j) Introduction of alternative arbitration to resolve levies related disputes to avoid delayed revenue collection.
- k) Develop mechanism, in collaboration with the Judiciary, for sharing court fines collected on matters related to Machakos County Government.
- l) Introduction of one stop shops in all sub counties to enhance investment facilitation and improve service delivery therefore, translating to increased revenue collection in the County.
- m) Conducting rapid response initiative (RRI) program for three months starting the month of April to June 30th 2023.
- n) The department will conduct continuous monitoring of the outcome of the above mentioned RRI and develop strategies for improved RRIs for enhanced revenue collection.
- o) Training and awareness - Proper training of revenue collection officers on procedures and ethics to help minimize the chances of fraud and error. Regular awareness campaigns will be conducted to help promote a culture of transparency and accountability.
- p) Identifying alternative sources of revenue beyond the traditional ones.
- q) Law enforcing fines on all defaulters apply at 30 per cent penalties of the defaulted amount.

Hon. Speaker, there was also a request on the issue of systems and controls that will be employed by the Department to seal loopholes and the department responded as follows:

- a) Full automation of revenue collection across all the 9 sub-counties to ensure cashless payment system to mitigate accountability and embezzlement issues. This translates to electronic payment system and automated record and reporting system.

- The department has been able to close down 210 Paybills and linked/integrated a new Paybill Number 1616160 and USSD code *707# to the County revenue collecting accounts.
 - The numerous registered Paybills posed a challenge in revenue collection reporting and proper management.
 - Full automation will enable all modules to be activated, including building plan approvals.
 - The department has been able to acquire phones and gadgets to be used by revenue officers to verify M-Pesa transactions and messages.
 - In collaboration with the department of Roads and Transport, the department will install KAPS parking system at Machakos, Tala, Kangundo and Komarock bus parks.
 - All controls will be implemented in line with the PFM Act, 2012 and the County Finance Act.
- b) Internal controls - Enhance internal controls such as approvals processes, segregation of duties, checks and balances can help to prevent fraud and errors.
- c) In collaboration with the department of Trade, all livestock yards in the County will be fenced for better controls in revenue collection.
- d) There will be establishment of a debt management unit to pursue rate defaulters which enhances own source revenue collection.
- e) Introduction of new approach for PSV payment for vehicles through SACCOs for better management and monitoring the stream's collections.
- f) The department also looks at centralization of all permits issuance for ease of enforcement and inspection.
- g) Continuous capacity building, redeployment and rotation of revenue employees to enhance efficiency and effectiveness. Therefore, continuous monitoring of revenue clerks to contain possible rogue employees will be conducted across the County.
- h) Enhancement and enforcement of all the revenue related laws into the Finance Act like Liquor Licensing Act, Sand Harvesting Act, Trade licensing Act and others.
- i) Continuous sensitization (Civic empowerment) of all citizenry on the benefits/importance of paying county levies.
- j) Support execution of waivers if need arises in the County.

Hon. Speaker, the statement further enquired on the support the Department of Revenue Management requires from the County Assembly to achieve its full potential and execute its mandate and the department highlighted the following areas:-

- a) Support in revenue mobilization - The County Assembly can assist to mobilize revenue by encouraging compliance with revenue laws and regulations through promoting public awareness and obligations/benefits/importance of paying county levies.
- b) Allocation of funds - Through allocation of sufficient funds to the revenue department to facilitate its operations. This may include budgetary allocations and facilitation for staff, procurement of 12 enforcement vehicles, equipment and any other resources necessary for effective revenue collection.
- c) Passing revenue related legislation - The County Assembly can pass laws and regulations that make it easier for the department to collect revenue.
- d) Through execution of their oversight mandate in the department through regular audits and reports to the Assembly.

- e) Support the revenue collecting department to execute their mandate and achieve maximum collections i.e. support land department to actualize the valuation roll exercise for the County.
- f) Collaboration - The County Assembly can work collaboratively with the department to provide guidance in identifying opportunities and gaps for revenue growth.
- g) Sensitize on the importance of paying revenue levies and fees to their electorates at all times for a conducive political environment and cushion on bad publicity.
- h) Multi-sectoral collaboration between the Executive and the County Assembly committee in-charge of revenue collection. This includes supporting revenue collecting departments in executing their mandate through joint ventures to share best practices that will enhance revenue collection.
- i) The County Assembly to participate fully in the department's public participation.

The county plans to achieve its revenue target this financial year by surpassing Ksh. 1.6 billion which will be the highest revenue collected since devolution. Attached please find the updated revenue records for ease of your reference.

Hon. Speaker the Committee presents this as a preliminary report pursuant to Standing Order 31(3) and undertakes to invite the CECM, Finance and Revenue Management for further engagement on the same issues and present a comprehensive report to this House. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Member. That was quite elaborate. Before I call upon Hon. Brian Kisila to state whether this response is adequate, though the Chair has said it is preliminary in nature, I want to call Hon. Members to ventilate a bit on the response. Hon. Ndeti.

Hon. Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. First I want to congratulate or commend the Member who gave this statement. I think it is in order but when you go through what our Chair for Finance has read, it is more of the procedure that our finance department is taking to ensure that there is revenue collection enhancement.

Members, as an Assembly we just need to support this department by not reducing their ceiling but increasing the amount of money we allocate to this department. You know very well you cannot look for money when you do not have money. So we need to ensure that in future when we are doing our budgeting, we have given them enough money to be able to spend and collect more on areas where they need to spend, like mapping.

Mapping, increasing the base for revenue collection; I think that is an exercise on its own that will take quite a bit of money. Clustering various businesses because right now I am sure if you ask them how many bars we have in the entire County, I do not think our County is aware. How many butcheries do we have? How many small micro enterprises (SMEs)? How many blue-chip companies do we have in the County? I do not think we have that data. The finance department has got a good idea of what they want to do to ensure they achieve maximum revenue collection. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Hon. Mulinge.

Hon. Joseph Mulinge (Muvuti/Kiima Kimwe, MCCC): Thank you, Madam Speaker. I would like to start by thanking the Committee. They have come up with very elaborative information.

However, I have listened to the information the department has given and majorly in the information, it has dwelt more on the past not present actions which they are going to take but Madam Speaker bearing in mind we are eight months since we were elected, eight months since we had a new government, I have not heard the response of saying this is what we have done. Majorly, what I have heard is we shall do this and that.

Next time, I urge the Committee, because the role of the Assembly is to oversight, to ask the department to come up with the real situation, instead of we shall do. We might fail to achieve the target of the County. Thank you so much.

Hon. Speaker: Thank you, Hon. Member. May I then call upon Hon. Brian Kisila to state whether the response is satisfactory?

Hon. Brian Kisila (Makutano/Mwala, MCCC): Thank you, Hon. Speaker. I think for the first time in this Assembly, We can see Chairmen and Committees who are competent in what they are supposed to do.

Madam Speaker, the reason I sought this statement is because you can see from the National Government that there is no money coming and there is no money coming even in future. The reason we need to start working on how we can grow our own revenue for our own development.

Madam Speaker, I am very satisfied with the response from the Chairman Finance. These measures he has indicated here are very comprehensive and in fact, what has got me very happy about it is that we are saying this year we are going to achieve Ksh. 1.7 Billion revenue. It is still on the lower side but we have never done it since the formation of all devolved units.

In my statement, I indicated we have got potential to comfortably do Ksh 3,000,000,000 and I think the measures indicated here are enough to ensure that we grow revenue next year to almost Ksh. 3,000,000,000. Madam Speaker we should put that as a target for next year. Let us all work towards ensuring that we deliver because the minute we get money for internal revenue, it goes to National Treasury and comes back for development. Ksh. 3,000,000,000 is achievable.

I am happy the Chairman has indicated the support he needs. So, what we need to do as an Assembly is to ensure that we put enough money in our budget and as per the proposals so that there should be no excuse of not achieving Ksh. 3,000,000,000.

Madam Speaker, that is our target but also, I am suggesting as Chairman for Decentralized and Urban Development, we have Municipalities which are idle in nature. One of the things we are pushing for in our Committee is how we will activate the municipalities to become serious revenue streams for the County Government.

(Applause)

In fact, Madam Speaker, there is only one County called Kisumu where municipalities collect revenue on behalf of the County Government. Madam Speaker, in our Committee we are pushing for operationalization of Urban and Cities Act so that Municipalities can be held accountable in delivery of service in their areas and also municipalities can start collecting revenue for us and we can start holding them accountable.

We also have a lot of water companies, Madam Speaker. These water companies are selling water but we cannot see any revenue coming from them. In fact they have become areas where they just take money from Executive; from the County Government. We will hold all these water

companies accountable. We want them to become revenue streams. Mavoko Water and Sewerage Company (MAWASCO) is a serious company; if we put our work together, we will generate a lot of money from there. So, Ksh. 3 Billion is actually an understatement.

One other area also which we must accept is the health sector. Madam Speaker, water and health can never be free and let us stop making political statements that we should treat people for free. The minute we make our facilities free, people from Makeni, Kitui and Nairobi come to our facilities. They take our medicine at the expense of our people.

Madam Speaker, I want to mention that we never used to collect any revenue in Mwala Level 4. Now I am very happy, Madam Speaker. In the last three weeks, we have collected revenue almost to a magnitude of Ksh. 600,000. This month alone, we want to deliver Ksh. 1,000,000. If we collect that money through the Health Committee, we are also working a way of collecting Ksh. 1,000,000 and the same amount comes back to the facility for enhancement of the revenue.

So this statement and this is the way Madam Speaker statements are supposed to be done in this Assembly. Let us stop having witch hunt or people bringing statements with other intentions. When we seek statements, let the committees take serious action on them and let them respond the way Chairman, Finance has responded.

(Applause)

I am very happy, I think that is how competent chairmen should be and Chairman now as I suggested, we will be having awards for chairmen in this Assembly. As it is, Chairman, Finance you are ranking very highly and please, we will keep this paper and we will keep on reminding you and in our next year's budget, Bw. Chairman, this coming financial year, we will not put revenue target at Ksh. 2 point something. We will put it at Ksh. 3 Billion.

Let us work together to ensure that the Governor and the Executive collect Ksh. 3 Billion. The minute that money comes, I can tell you that this County will become the talk of the entire country. Thank you very much, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Kisila and thank you very much, Chair, Finance and County Revenue Collection. That was really elaborate. We can see a lot of commitment and we can see that the work of oversight that we are mandated to do is being done in the right way.

We will ensure that we achieve the goal we have set of Ksh. 3 Billion. It is achievable as said, but also let us think about budgetary allocation as Members have said. Thank you, Hon. Members.

(Applause)

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: The House now adjourns to Tuesday, 25th April, 2023 at 2.30 p.m. Thank you.

The House rose at 11.35 a.m.

