

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 25th July, 2023

The House met at 10.50 a.m.

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

PRAYERS

Hon. Speaker: Good morning, Hon. Members. I wish to take this opportunity to welcome you back from the just concluded recess. I hope you were able to undertake various Committee activities and interact with the electorate.

COMMUNICATIONS FROM THE CHAIR
ACCESS TO INFORMATION AND EMBRACING TECHNOLOGY

Hon. Members, Article 35(1) of the Constitution provides that the right of access to –

- (a) Information held by the State; and
- (b) Information held by another person and is required for the exercise or protection of any right or fundamental freedom.

In addition, Article 35(3) of the same Constitution provides that the State shall publish and publicize any important information affecting the nation.

Further, Article 196(1)(a) of the Constitution provides that a County Assembly shall conduct its business in an open manner, and hold its sittings and those of its committees in public.

In furtherance of these provisions of the law, the County Assembly has embraced Information Communication Technology (ICT) and has been uploading all Assembly Papers (Order Papers, Motions, Statements, Bills, Reports and the HANSARD) and Tenders in the Assembly Website for your own access and that of the Public.

Further to this, the Assembly has procured a tablet for each Hon. Member to be used to access the Assembly documents that have been posted in the website as well as all other materials that which will make you as a legislator more effective.

The Assembly also wishes to go green and mitigate the effects of Climate Change by reducing on printing which will also reduce consumption of papers, toners and electricity. Therefore, it is envisaged that the tablets will be used to access Assembly Order Papers, Reports, Minutes and Documents during Plenary and Committee sittings.

Hon. Members, I wish to inform you that hard copies will not be available starting next week on 31st July, 2023. You are advised to visit the ICT desk set up at the reception of the new office block for configuration of your tablet and updating of your corporate email.

COUNTY ASSEMBLIES SPORTS ASSOCIATION (CASA) GAMES

Hon. Members, you recall that on 6th June, 2023, I communicated that, the County Assemblies Sports Association (CASA) had commenced preparations for the fourth edition of CASA games, whose theme is: ‘to inculcate the integration and social interactions through sports and diverse cultures’ scheduled for August, 2023 in Nakuru County. I did request you to register for the games that you will take part in and indicated that the exact dates will be communicated later. In addition, you were requested to be available for training sessions for the games on Mondays, Tuesdays and Wednesdays from 4.00 p.m.

Further to this Communication, I wish to communicate that, the said CASA games will take place in Nakuru County from 19th to 27th July, 2023. I also wish to inform you the days for practice have been increased from three to four and thus you are asked to be available for training sessions from Monday to Thursday from 3.30 p.m.

DEMISE OF MR. FELIX GITARI MBIUKI

Hon. Members, it is with deep sense of loss and sorrow for the County Assembly fraternity to announce the untimely demise of the inaugural and Emeritus Clerk of the County Assembly of Machakos, Mr. Felix Gitari Mbiuki.

Mr. Mbiuki served as the Clerk of the defunct County Council of Masaku among other County Councils before being appointed by the transition authority and confirmed by the County Assembly Service Board (CASB) as Clerk of the County Assembly of Machakos in 2013.

He worked for the Assembly until 9th February, 2022 when he took an early retirement to venture into active politics in the gubernatorial race in Tharaka Nithi County.

Mr. Mbiuki leaves behind a legacy of excellence that will continue to inspire many in their work and dedication to serving the people of Machakos County. The burial date is slated for 1st August, 2023 in Tharaka Nithi County.

I wish to convey my heartfelt condolences on behalf of the County Assembly to the family, friends and County Assembly fraternity. Fare thee well Mr. Mbiuki.

PAPERS LAID

REPORT ON VETTING OF NOMINEE AS COUNTY EXECUTIVE COMMITTEE MEMBER FOR GENDER, YOUTH, SPORTS AND SOCIAL WELFARE

Hon. Speaker: May I invite Hon. Stephen Mwanthi to proceed and lay a paper after which Hon. Philip Ndolo will also lay another paper.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker. Hon. Speaker, I beg to lay the following Paper on the Table of the Assembly today, Tuesday, 25th July, 2023; the Fourth report of the Committee on Appointments of the Third Assembly on the vetting of nominee for appointment to the position of County Executive Committee Member for Gender, Youth, Sports and Social Welfare.

Hon. Speaker: Thank you, Hon. Member. Hon. Philip Ndolo.

REPORT OF AUDITOR GENERAL ON MACHAKOS COUNTY ASSEMBLY CAR LOAN SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2019

Hon. Douglas Musyoka (Masii, MCCP): Thank you, Madam Speaker. I take brief for Hon. Philip Ndolo who is the chairperson of the Public Accounts and Investment Committee. Hon. Speaker, I wish to lay the following Paper on the floor of the House today Tuesday, 25th July, 2023; the report of the Auditor General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June, 2019. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Douglas.

(The Papers were laid on the Table)

NOTICES OF MOTIONS

REPORT ON VETTING OF NOMINEE AS COUNTY EXECUTIVE COMMITTEE MEMBER FOR GENDER, YOUTH, SPORTS AND SOCIAL WELFARE

Hon. Speaker: May I invite Hon. Stephen Mwanthi to give a notice of motion as well as Hon. Douglas Musyoka also to give another notice of motion.

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

Hon. Speaker, that aware THAT Article 179(2)(b) of the Constitution as read with Section 30(2)(d) of the County Governments Act provides that the Governor shall appoint the County Executive Committee Members with approval of the Assembly from among persons who are not Members of the Assembly;

Aware THAT Standing Order 184(4) of the County Assembly of Machakos Standing Orders provides that the Committee on Appointments shall consider, for approval by the Assembly, appointments of Members of County Executive Committee;

Aware THAT the Governor forwarded a nominee for approval for appointment as the County Executive Committee Member for Gender, Youth, Sports and Social Welfare after the previous holder of the office resigned;

Hon. Speaker, I wish to give notice of the Motion THAT, taking into consideration the findings of the Committee on Appointments in its Fourth Report on the Vetting of Nominee for Approval as County Executive Committee Member, laid on the Table of the House today, Tuesday, 25th July, 2023 and pursuant to Article 179(2)(b) of the Constitution, Section 30(2)(d) of the County Governments Act, Sections 4 and 9 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 184(4), this House approves the appointment of Mr. John Mwangangi Kilonzo as County Executive Committee Member for the Department of Gender, Youth, Sports and Social Welfare.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Hon. Douglas Musyoka.

REPORT OF AUDITOR GENERAL ON MACHAKOS COUNTY ASSEMBLY CAR LOAN SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2019

Hon. Douglas Musyoka (Masii, MCCP): Thank you, Madam Speaker.

Hon. Speaker, that aware THAT Article 229(5) of the Constitution provides that “the Auditor-General may audit and report on the accounts of any entity that is funded from public funds;

Further aware that, Article 229(7) of the Constitution that states that Audit Reports shall be submitted to Parliament or the relevant County Assembly;

Cognizant THAT the report of Auditor General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June, 2019 was received in the Assembly February 2022;

Further aware THAT the report was committed to the Committee of Public Accounts and Investments pursuant to Standing Order 185(2)(b) and (c) that states that “the Public Accounts and Investments Committee shall be responsible for examination of reports, accounts and workings of the County Public Investments and whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices;”

Aware THAT the committee after receipt of the report conducted several meetings with the Accounting Officer of the fund together with officers from the office of the Auditor General and subsequently compiled a report.

Hon. Speaker, I wish to give Notice of Motion that this House discusses and approves the report of Auditor General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June, 2019.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Next order.

STATEMENT

BUSINESS FOR THE HOUSE FOR 25TH JULY, 2023

Hon. Speaker: I invite Hon. Nicholas Nzioka, Hon. Dominic Maitha and Hon. Judas Ndawa to proceed and make their statements. I am not saying that for the first time. Can we have the concerned people to actually sanitize these mics instantly?

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. Hon. Speaker, I will start by taking this opportunity to also register my condolences to the family of the late Mbiuki, our first clerk in this Assembly. Hon. Speaker, again before I give the statement, I was of the opinion that it is only fair if you direct the Assembly to at least observe a moment of silence in honour of the departed soul. That is according to your discretion.

Again Hon. Speaker, I was also feeling that it will be fair if the Office of the Clerk can also provide a condolences book for Members to register their condolences and if possible we have two or three candles lit there plus the photograph of the late Clerk Mbiuki.

I now go back to the business that I was raising to present. The first statement is supposed to be brought by Nicholas Nzioka who is the Majority Leader and since I am the Minority Leader and a member of the House Business committee, I feel I am the most appropriate person to read the statement.

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

Tuesday, 25th July, 2023

Morning at 10.00 a.m.

- a. Statement on safety of workers at Golden African Company by Hon. Dominic Maitha, MCA Muthwani Ward.
- b. Statement on Human-Wildlife Conflict in Matuu Ward by Hon. Judas Ndawa, MCA Matuu Ward.
- c. The Machakos County Spatial Planning Bill, 2023; First Reading.
- d. The Machakos County Fire and Rescue Services Bill, 2023; First Reading.
- e. Report on the vetting of Nominee for appointment to the position of County Executive Member for Gender, Youth, Sports and Social Welfare by Hon. Stephen Mwanthi, Vice-Chairperson, Committee on Appointments.

Afternoon at 2.30 p.m.

- a. Report of the Auditor-General on Machakos County Assembly Car Loan Scheme Fund for the year ended 30th June 2019 by Hon. Philip Ndolo, Chairperson, Public Accounts and Investments Committee.
- b. Motion on tree planting by Hon. Catherine Kyee, MCA, Special Elect.
- c. Adjournment of the House and alteration of the calendar by Hon. Nicholas Nzioka, Leader of Majority.

Thank you, Hon. Speaker.

COMMUNICATION FROM THE CHAIR

TRIBUTE TO EMERITUS CLERK, FELIX GITARI MBIUKI

Hon. Speaker: Thank you, Hon. Member. Before we proceed to have other Members make their statements I wish to make the following observations that have been made also by the Leader of Minority and I direct as follows; that in honour of the departed former Clerk, Felix Gitari Mbiuki, as an Assembly we observe one minute of silence in his honour, a book of condolences be opened with a photo of the departed Clerk, Gitari Felix Mbiuki attached to it so that we can write our tributes in his honour. Can we have that one minute of silence?

*(Members stood in their places in Hon.our of
the late Emeritus Clerk, Felix Gitari Mbiuki)*

Thank you, Hon. Members. Let us proceed with our proceedings. Hon. Dominic Maitha.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker. I want to take this opportunity to welcome back the fellow Members in this Assembly and your presence Madam Speaker after almost a one-month recess that we went to rest and we are back healthy. We thank God for this opportunity and if you allow me some few seconds, I want to pass my deepest condolences to the family of the late Clerk, Mheshimiwa Mbiuki.

This caught us with surprise and it never augured well with us those who have dealt with him, worked with him in the First Assembly. Madam Speaker, when we came to the First Assembly in 2013, we were very new and green in devolution. We never understood much in terms of devolution. I can Hon.estly say deep from my heart, the late Clerk has made this

Assembly as it is today. The changes, the transition, the face of this Assembly to be where it is, it all came out of his contribution out of the experience he had in public service. We have really lost a great fellow, a great leader.

Under the circumstances in which he lost his life, we can only leave it to God and the perpetrators shall face the wrath of God. It is unfortunate, it is untimely and what we can do is just to wish his family well and his soul to rest in peace and it is my hope that this Assembly will continue to remember the good deeds that the Hon. Clerk of the First Assembly did to this Assembly. It is attestable, we learnt a lot from him to be what we are today. May his soul rest in peace.

STATEMENTS SOUGHT

SAFETY OF EMPLOYEES AT GOLDEN AFRICA (K) LIMITED

Hon. Speaker, Article 41(2)(b) of Constitution of Kenya, provides that every worker has the right to reasonable working conditions;

Section 13(1)(a) of the Occupational Safety and Health Act, 2007 provides that every employee shall, while at the workplace ensure his own safety and health and that of other persons who may be affected by his act or omissions at the workplace.

Further, Section 13(1)(c) states that every employee shall, while at the workplace at all times wear or use any protective equipment or clothing provided by the employer for the purpose of preventing risks to his safety and health;

Section 6(1) of the Occupational Safety and Health Act, 2007 states that every occupier shall ensure the safety, health and welfare at work of all persons working in his workplace;

Hon. Speaker, on 23rd December, 2022, three Workers of Golden Africa (K) Ltd in Mavoko Sub-County died while cleaning the plant's septic tank which had a surge. Noting that the Company did not provide the Officers with needed equipment and failed to adhere to the requirements that the surge should be opened at least 24 hours before anyone is allowed in, Hon. Speaker, I wish to seek a statement on what the County Government of Machakos has done to ensure adherence of safety requirements of employees while in the said factory.

Madam Speaker, it is sad that we are experiencing serious inhumane activities in most of the factories and established institutions in this country. The matter at hand is disgusting facing (??) circumstances under which these fellow Kenyans lost their lives. The Committee of Environment visited one factory in Athi River and found the working conditions of the employees there was terribly bad.

That is what necessitated this Statement to be sought, Madam Speaker. So, I want to seek this statement so that we can protect the lives of our people; our people are dying and working under very tough conditions in some of the factories especially in Mavoko and its surroundings. When they try to attempt to seek audience, they are threatened to lose their jobs. Madam Speaker, the workers who are working in these companies emanate from all the four wards in Mavoko; Muthwani, Kinanie, Athi River and Mlolongo Wards.

We have received complaints on behalf of these employees; that is why I want to seek this Statement to know what is the County Government of Machakos doing so that it can continue protecting the lives of these employees whose lives are at risk and even the lives of

other employees who might have raised their concerns within Mavoko Sub County and even in Machakos County in general. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Member. I wish to reiterate your sentiments and say that the safety of workers everywhere in this county is very key to us and in that regard, I request the Committee on Labour, Public Service and ICT to investigate that matter seriously and bring a report here on or before 15th August, 2023. Therefore I am committing that Statement to Labour, Public Service and ICT Committee to report on or before 15th August, 2023. Thank you, Hon. Members. Hon. Judas Ndawa.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. I will start by applauding you for responding very fast. In fact, up to now, we have every reason to say that we have a competent and a caring Speaker.

Hon. Speaker: Thank you, Mheshimiwa.

Hon. Mbili Ndawa (Matuu, MCCC): Again Hon. Speaker, before I proceed. On the same note, I would request on the issue of the late Mbiuki, I request that the Assembly also appoints a team to go and stand with the family on behalf of this Assembly. It is very unfair if the Assembly is not represented or taking part in the burial preparations. So, I am very sure you have plans to ensure that the Assembly is represented and again I am making an application that because we are going to have another motion later in the afternoon; you also allow MCAs to travel on Monday to Meru so that they can be able to attend that burial. And you also allow them, because I have attended burials in Meru, the burials end very late, you allow them to spend there so that the following morning they can have time to sit with the family members and give their messages of condolences.

HUMAN-WILDLIFE CONFLICT IN MATUU WARD

Hon. Speaker, I go back to the business which has brought me here.

Hon. Speaker, aware that section 24(2) of the Wildlife Conservation and Management Act, 2013 states that the Wildlife Compensation Scheme shall be used for financing compensation claims for human death or injury or crop and property damage caused by wildlife;

Hon. Speaker, further aware that Section 25(4) of the Wildlife Conservation and Management Act, 2013 states that any person who suffers loss or damage to crops, livestock or other property from wildlife specified in the Seventh Schedule hereof and subject to the rules made by the Cabinet Secretary, may submit a claim to the County Wildlife Conservation and Compensation Committee (established under Section 18) who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration;

Hon. Speaker, cognizant that human-wildlife conflict in Machakos County and in particular Mbingoni village, Katulani sub-location, Ngengi and Kitambaasye in Matuu ward, is a pressing and complex issue that stems from the co-existence of local communities and diverse wildlife species in the region, the wildlife from B2 Ranching has continued to destroy crops on the nearby farms and the response from the nearest Kenya Wildlife Office in Donyo-Sabuk is not prompt.

Hon. Speaker, I wish to seek a statement on the following from the Chairperson, Devolution Committee:

1. The initiative Kenya Wildlife Service is doing to ensure that the wildlife in the nearby ranch is contained to avert destruction of property.
2. Whether Kenya Wildlife Service has established a fair and prompt compensation or insurance mechanisms for communities affected by wildlife attacks or property damage can alleviate economic hardships through the County Wildlife Conservation and Compensation Committee established under section 18 of the Wildlife Conservation and Management Act, 2013.
3. Why Kenya Wildlife Service has not established Wildlife Corridors and Fencing for animal migration and strategically placed fences to help reduce human-wildlife encounters in high-conflict areas.

Hon. Speaker, after seeking such a Statement, the reason why I have brought this Statement here, you know everybody is crying that the prices of food are very high and that is evident. My farmers and residents in Matuu ward are very active and serious farmers. When the rain falls, they go to the *shambas* and do what is required of them to address the issue of food security.

When the crops were almost ready for harvesting, this problem came up and as the area MCA, I have intervened by calling the Ol-Donyo Sabuk office to come and see what is happening. The only challenge that we are getting is, the animals come at night. Once you call, the officers who will be sent from that office will come as from 10:00 a.m. when the animals have already gone back to their areas. So those who come, do not understand well whether what we are telling them is the truth.

Hon. Speaker, I need to be guided because I am very sure the supreme law is always guided by the customary law. In Kamba customary law, if someone's cows come to your *shamba* and chase them away and when you tell the person his/her animals have destroyed your food, sometimes they say no. And what happens in our Kamba customary law, when the animals come a second time, you lock them in your compound so that the owner can come and identify whether the animals belong to him/her.

So, Hon. Speaker, I fail to understand what route we are going to follow to ensure once these animals come again to our farms, we detain the animals and maybe now call that office when we already we have the animals with us. One day they sent the officers and told us they are going to chase them up to the furthest region of the ranch and when they chased them and went back, the animals followed them. The following night, they were on our *shambas*.

Hon. Speaker, my concern is, is the wildlife department ready to feed Matuu residents who have suffered from this? Again, if you look at the zebras which are there, Madam Speaker, the zebras are chasing the farmers instead of vice versa. If we do not take action, we may end up losing lives or getting our people injured. As we talk Hon. Speaker, my farmers have suffered what we call *injuria sine damnum* and we need to be given special and general damages for that loss.

Hon. Speaker, this is not a simple matter and I am sure what is happening in Matuu may also be happening in other areas in Machakos County. I would request that you allow two or three Members to also ventilate, so that instead of having another statement similar to this, we can consolidate and handle the matter altogether. Thank you, Hon. Speaker.

Hon. Speaker: Thank you Hon. Member. I want to invite other Members because I think this matter of destruction and human-wildlife conflict is common in the entire Machakos County. I am sure in Mavoko we are experiencing that. Can I invite Hon. Aliphonce to comment?

Hon. Aliphonce Mutinda (Kivaa, MCCC): Thank you, Madam Speaker. I rise to applaud the words which have been spoken by the Hon. Member for Matuu. In the last two weeks, I had a similar problem in my ward; Kivaa ward is the farthest out of all the 40 wards of Machakos County and I border Embu and Kitui Counties. We have game reserve known as Mwea Wildlife Service which I border with and I confirmed that elephants crossed to my ward and did a lot of damage. About 50 families, their crops were totally damaged by the elephants. So, I want that matter to be taken seriously because those farmers or families really need to be compensated. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Member. Hon. Muoki.

Hon. Muoki Musila (Ndithini, WDM-K): Thank you, Madam Speaker. I rise to support exactly what has been put forward and if you look at it, I saw my hand was up Mheshimiwa Aliphonce hand was up, Mheshimiwa DS's hand was up. If Mheshimiwa Mwonga was here, I am sure his hand would be up and Mheshimiwa Musila is up. You can see I am driving at something.

This is Masinga; Masinga we border Mwea on one side and our common boundary is the Masinga water reservoirs which are full of animals, particularly the hippos. Not once nor twice in my area, have they killed people, and whenever I try to follow it up, I end up on a dead end. What I am trying to say is, the statement being sought by Hon. Ndawa of Matuu about animals invading our farms, yes it is right; we need to get to the bottom of all this, we are losing people's lives because of those animals.

That water of Masinga reservoir; it has hippos and crocodiles. Those two particular animals I do remember one time I was doing my campaigns; instead of going to address the people who were waiting for me, I found a young man who had been attacked by the crocodile. I had to take him to the hospital and remember our place in terms of transport system the way they are. I had to stop, take the young man to Thika Hospital so that he can be attended.

I am rising to support exactly what has been sought so that we can finalize on it once and for all. Thank you Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Hon. Mbuva after which Hon. DS and Hon. Munyao.

Hon. Charles Mbuva (Kangundo West, GDDP): Thank you, Madam Speaker. I would wish as well to add my voice on this very serious matter. First of all, the aspect of human life; wildlife is not only dangerous to crops in the field but also dangerous to human life. Madam Speaker, we may need some radical shift. The area of keeping wildlife, the vast huge lands which were lying idle where wildlife would be grazing and moving around freely is diminishing. The human population is increasing; areas which were open fields are now coming under cultivation but the same mechanisms of conservation have not been improving just as times are moving.

It is now dangerous to keep wildlife in open fields which are not even fenced and Madam Speaker, something else is also coming to my mind. The agency that manages wildlife is a national institution. The proceeds generated from that wildlife sector do not even end up into our county coffers; they are proceeds of national revenue. We would first of all begin to think, first of all, how much we as county generate from those wildlife conservation centers, the Ol-Donyo Sabuk and any other conservation area which is affecting our people because there should be a form of gratuity.

There should be some form of earnings for the county of Machakos. Maybe that could cushion our people whenever they suffer losses. Together with that, Mheshimiwa Ndawa, I want also to give you a piece of advice; please do not invoke that customary law of keeping animals to wait for the owner. If some of them could be buffaloes Madam Speaker, let me offer some advice to my brother, not to attempt to capture the elephants to wait for the owner. A more serious problem may arise than the food crops.

That notwithstanding Madam Speaker, the places where this wildlife is conflicting with the farmers and members of the public, we would want to know what partnership, do we have any policy? Because as I have said, the agencies which manage the conservation areas are national government entities. Does there exist any policy on the relationship of the County Government of Machakos and the conservation agencies, the Kenya Wildlife Services? In the absence of such a policy, those people will be hiding behind a curtain. There must be a framework of how we relate or they transfer their animals and Madam Speaker, I am not apologetic.

Sometimes human beings we are very strange. We are given by God the superior mind and we make laws to regulate even the existence of other beings but we sometimes make laws to our detriment. How can we make a law that says that the elephant is more important than the human being? Today, if you kill a buffalo while it is destroying your farm, you have a case to answer, but if the buffalo because it has no good brains, if it kills you, your family has no remedy and if there is a remedy it is going to be full of shenanigans.

Madam Speaker, it is time now we start making laws also taking inasmuch as we need the wildlife, we need the tourists, we need the earnings, let us protect human beings and property, and I can clap for myself on that part. Let us make laws which preserve property and human beings just as we preserve wildlife. Thank you Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Member. In fact, on the issue of compensation, when the laws available for compensation of injuries arising from conflict with wildlife are very bureaucratic, you will never get compensated. I mean, it is a process full of hurdles, so we have a lot to do and this area is very grave. Members of this Assembly, please let us take it very seriously.

I invite DS to comment after which Hon. Munyao will... Has the mic been sanitized? Did the sanitization take place? It can be sanitized against you also.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Hon. Speaker. As I grew up I used to see these game wardens moving around the game reserves. Like for example, in my ward that borders Hon. Ndawa's ward, there is that game reserve in his area. I also border the Masinga dam whereby we have so many hippos in there but mostly, we get problems with hippos.

Madam Speaker, farmers from that region depend so much on the Masinga dam water, maybe to irrigate their farms and so I believe it is an area that has been supporting the county and residents across with the produce that we get from there but this issue of wildlife, the hippos have been a nuisance to the farmers. As I speak now, it is only this week when a hippo attacked one of my residents. As we speak now, we are waiting to bury that person. In fact we have not yet confirmed the date though luckily, it killed the person and it was also killed by residents.

Hon. Ndawa you may come and I show you what you will be doing if the farmer does not take care of his animals. There is a way that we can be getting them and waiting for the farmer just as it has been said. It has been rampant all across and getting those guys from Donyo-Sabuk, from Donyo to Ekalakala it is like more than seventy kilometers so when you call them, they may even take two days. The animals are there at night and so when you call them they will come the following day, very late and maybe if it was attacking a person, that person will be dead or maybe it is that issue of the animals coming in to our farms.

It has been a big problem to our people and so we support that. As we seek the information, it is also good they come up with a good structure that will help our people make sure that they are also moving around just as they used to do before. Of course they used to move around the game reserves, at least monitoring the whereabouts of their animals, so thank you Madam Speaker and I do support that statement and I will be looking forward to getting good responses so that we may take care of our farm produce and our people. Thank you.

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

Hon. Johana Munyao (Mutituni/Ngelani, MCCC): Thank you, Madam Speaker. I also stand to support the statement presented before this House by Hon. Ndawa, the Minority Leader. I want also to inform this House that about a month or so ago in my area, we also buried a victim of the same where a father was attacked and that family, as we speak, is short of the breadwinner. I think we should agree that if the government is not able to protect its people then it is the high time we mobilized our people and protected ourselves.

I know the Act on Animal Protection Section 30(2) I just want to quote, that it says, “where a protected animal or game animal is killed in immediate defense,” because you are only allowed to kill an animal when we are defending ourselves and I wonder whether when you are attacked and you are alone, you may have no time to defend yourself, when we kill it after it has killed one of us, I do not know whether that one will really be of any benefit to us. “Where a protected animal or game is killed in immediate defense of human life, the person killing the animal shall make a report of the fact at the earliest practical moment to an officer of the service.” We are supposed to kill and make a report but when we are killed I do not know who makes a report because they should also make a report immediately geared towards compensating us.

So I think because it is becoming a real menace in so many areas, it is the high time we pursued this statement and get the responses and if need be, also engage the other relevant authorities and make sure that our people are safe. If not so, we mobilize our people and protect ourselves. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Member. I was expecting Hon. Ndwiki to comment on this area because there is a lot of menace taking place around Mlolongo. There is a

hyena that is moving around; it has attacked several people. That is true and it is not something that happened long time ago; it is something that is happening right now.

So I was expecting a response from Mheshimiwa Ndwiki but having ventilated over this matter, it clearly comes out that we are affected all of us and will request the committee on Devolution and Intergovernmental Relations to look at this matter deeply and even other areas that have not been mentioned here because it is an area that is affecting everyone and therefore we submit this particular matter to the Devolution and Intergovernmental Relations committee to look into the matter and report on or before 15th August, 2023. Thank you, Members.

BILLS

(First Reading)

THE MACHAKOS COUNTY SPATIAL PLANNING BILL, 2023

THE MACHAKOS COUNTY FIRE AND RESCUE SERVICES BILL, 2023

(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Committees)

SPECIAL MOTION

REPORT ON VETTING OF NOMINEE AS COUNTY EXECUTIVE
COMMITTEE MEMBER FOR GENDER, YOUTH, SPORTS AND SOCIAL WELFARE

Hon. Speaker: May I call upon Hon. Stephen Mwanthi, Vice Chairperson, Committee on Appointments to move that Motion.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker. I was calling the Serjeant-at-Arms to come and sanitize the mic again for me.

Hon. Speaker: He has forgotten again. Serjeant-at-Arms, for clearance of doubts, let us have it sanitized.

Hon. Stephen Mwanthi (Ekalakala, WDM-K):

Hon. Speaker, that aware THAT Article 179(2)(b) of the Constitution as read with Section 30(2)(d) of the County Governments Act provides that the Governor shall appoint the County Executive Committee Members with approval of the Assembly from among persons who are not Members of the Assembly;

Aware THAT Standing Order 184(4) of the County Assembly of Machakos Standing Orders provides that the Committee on Appointments shall consider, for approval by the Assembly, appointments of Members of County Executive Committee;

Aware THAT the Governor forwarded a nominee for approval for appointment as the County Executive Committee Member for Gender, Youth, Sports and Social Welfare after the previous holder of the office resigned;

Hon. Speaker, I wish to give notice of the Motion THAT, taking into consideration the findings of the Committee on Appointments in its Fourth Report on the Vetting of Nominee for Approval as County Executive Committee

Member, laid on the Table of the House today, Tuesday, 25th, July 2023 and pursuant to Article 179(2)(b) of the Constitution, Section 30(2)(d) of the County Governments Act, Sections 4 and 9 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 184(4), this House approves the appointment of Mr. John Mwangangi Kilonzo as County Executive Committee Member for the Department of Gender, Youth, Sports and Social Welfare.

I call upon Hon. Brian Kisila to second.

Hon. Speaker: Thank you DS. Hon. Brian Kisila please.

Hon. Brian Kisila (Makutano/Mwala, MCCC): Thank you very much, Madam Speaker. I am a Member of this Committee. I stand here Madam Speaker to Second.

(Question proposed)

I now wish to invite Members to debate this matter but before I do that, may I call the mover to come and make some highlights on the report.

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

Hon. Speaker: Yes Hon. Ndawa.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. I am rising on Standing Order 27 on extension of time. That aware THAT Standing Order 27 provides that the Speaker shall interrupt business at 12:30 p.m. in the morning sitting; Aware THAT Standing Order 27(3) provides that the House may resolve to extend the sitting time; Aware THAT Standing Order 27(4) requires the Motion to extend sitting time to be moved at least 30 minutes before the time appointed of adjournment.

Hon. Speaker, I beg to move the Motion that this House resolves to extend its sitting time until the Business in the Order paper is concluded. Thank you, Hon. Speaker. I call upon Hon. Dominic Ndambuki to second my Motion.

Hon. Speaker: Hon. Ndambuki.

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

(Question proposed)

(Question put and agreed to)

Proceed, Hon. DS.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker. I will read some highlights. I believe Members have got the copies of the report so that we may go fast. I start with the foreword, page 3.

Pursuant to Article 179(2)(b) of the Constitution and Section 30(2)(d) of the County Governments Act, the Governor of Machakos County, Her Excellency, Hon. Wavinya Ndeti nominated John Mwangangi Kilonzo, for appointment as County Executive Committee Member for Gender, Youth, Sports and Social Welfare.

Notification of the nomination was conveyed to the Speaker of the County Assembly through a letter Ref No. GMC/OOG/105/23 dated 27th June, 2023. On Wednesday, 12th July, 2023, the Speaker of the County Assembly, pursuant to Standing Order 39(1), read the message from Her Excellency the Governor Machakos County communicating the name of the nominee.

Further, pursuant to Section 7(1) and Standing Order 184(4), the name of the nominee was committed to the Committee on Appointments for approval hearings and reporting to the House within fourteen days. Consequently, and in accordance with Article 196(1) of the Constitution, Section 7(5) and (10) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 42(5) and (6), the Clerk of the County Assembly placed an advertisement in the print media on Thursday, 13th July, 2023 inviting the public to attend the approval hearing and/or submit any information or comments on suitability or otherwise by way of sworn affidavits for appointment of the nominee.

By close of the submission deadline on 19th July, 2023, the committee did not receive any memoranda touching on the suitability or otherwise of the nominee for appointment. In the same advertisement, the Clerk of the County Assembly notified the public that the Committee on Appointments would conduct the approval hearing on Thursday, 20th July, 2023.

The nominee appeared before the Committee as scheduled on Thursday, 20th July, 2023 for approval hearing in accordance with the provisions of the Constitution, Public Appointments (County Assemblies Approval) Act, 2017 and the County Assembly of Machakos Standing Orders.

Pursuant to Section 7(8) and (9) and Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017, the Committee observed that the nominee John Mwangangi Kilonzo met the requirements of Chapter Six of the Constitution, demonstrated knowledge and experience on the portfolio to which he had been nominated, had the requisite academic qualifications, training and professional experience and scored an average mark of 94.4 per cent which is above the pass mark of 60 percent set by the Committee to be approved for appointment as County Executive Committee Member for Gender, Youth, Sports and Social Welfare in accordance with Article 179(2)(b) of the Constitution and Section 30(2)(d) of the County Governments Act.

Having conducted the approval hearing for the nominee pursuant to Article 179(2)(b) of the Constitution and Sections 30(2)(d) of the County Governments Act, Sections 4 and 9 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 184(4), the Committee recommends that the House approves the nomination of John Mwangangi Kilonzo, for appointment as County Executive Committee Member for Gender, Youth, Sports and Social Welfare by Her Excellency, the Governor of Machakos County.

The Committee is grateful to the Offices of the Speaker and that of the Clerk of the County Assembly for the support accorded during the execution of this task. The Committee is also thankful to the civil society and members of the public for following the proceedings at the Assembly public gallery and other media platforms.

I wish to express my appreciation to the Hon. Members of the Committee who sacrificed their time to participate in this exercise.

On behalf of the Committee on Appointments and pursuant to Section 14(3)(b) of the County Governments Act, section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 179(6), it is now my duty and privilege to present to the House, the fourth report of the Committee on Appointments on the Approval hearing of the nominee for appointment to the position of County Executive Committee Member for Gender, Youth, Sports and Social Welfare.

Madam Speaker, that is the executive summary of the report. Members, on page 12 you will find the approval hearings that were conducted by the committee. On page 15 is the Committee observation. Madam Speaker, if you allow me, I can read the observations and the recommendations.

Hon. Speaker: Proceed and read the observations.

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

Committee Observations on the Suitability of the Nominee

The Committee, having considered the nominee's filled questionnaire pursuant to Section 7(9) of the Public Appointments (County Assemblies Approval) Act, 2017, his curriculum vitae and having heard oral submissions during the approval hearing, observed that the nominee is a Kenyan citizen, has the requisite education and training, possesses relevant knowledge and experience and satisfies requirements of Chapter Six of the Constitution and the nominee attained average mark of 94.4 percent.

Based on the above, the nominee was assessed and awarded marks as per the table below. Madam Speaker the table is there and the marks that were awarded by assessors.

Committee recommendations

Having conducted the approval hearings of the nominee pursuant to Article 179(2)(b) of the Constitution Section 30(2)(d) of the County Government Act Sections 4 and 9 of the Public Appointments (County Assemblies Approval) Act 2017 and Standing Order 184(4), the Committee recommends that the House approves the nomination of Mr. John Mwangangi Kilonzo for appointments as the County Executive Committee Member for Gender, Youth, Sports and Social Welfare by Her Excellency, the Governor of Machakos County. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much DS. I now invite Members to debate on this matter. Hon. Dominic Ndambuki after which Hon. Dee Kivuva.

Hon. Dominic Ndambuki (Kathiani Central, WDM-K): Thank you, Hon. Speaker. I arise to support this report, Madam Speaker. First of all, I want to thank the Committee on Appointments for a well elaborated report. Hon. Speaker, going by the findings and presentations of this Committee before the House, it is clear that the nominee meets the threshold requirements and passes the suitability test to hold the office of the CEC Member for Gender, Youth, Sports and Social Welfare.

Hon. Speaker, my plea would be to the nominee once he assumes office that the majority of the population in Machakos County are those in the age bracket of between 18 to 35 years who qualify to be called youth. Therefore, it is incumbent upon him to come up with policies on how to address the plight of the majority of the population in Machakos County so that Madam Speaker, we engage them positively to ensure that they do not engage themselves in things that might endanger their future lives. Thank you, Hon. Speaker. I support.

Hon. Speaker: Thank you, Hon. Member. Hon. Dee Kivuva.

Hon. Mutisya Kivuva (Nominated, WDM-K): Thank you, Hon. Speaker. I represent the marginalized group. I want to thank the Committee on Appointments for the good work about our nominee for sports who is my good friend, Hon. John Kilonzo. We share the same hairstyle; in fact I copied from him and I know he is equal to the task, I can tell you for free.

The only place I am differing with the Committee is the marks awarded. They awarded low marks of 94 I thought he would have scored more than 98 marks. He is equal to the task; we campaigned with him for Governor and I think he was the only person, if I could remember, who had not been rewarded and I know he will be equal to the task and will perform optimally.

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

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Hon. Speaker. Hon. Speaker, I want to air my views on the report before the House. I happen to be a Member of the Committee on Appointments.

I would start by applauding the Committee for doing an excellent job. Hon. Speaker, we considered all the items that were set for us to look and starting with work experience, Hon. Speaker if you look at the report, that candidate only missed one mark. It was supposed to be 25 and he managed to get 24 out of 25.

About interest and knowledge relating to specific position, he only missed 0.7 marks. The other item was 10 marks he got 9.5. Presentation and neatness he got 9.6 and the marks were 10. So in total, Hon. Speaker, because every Member can see for him or herself, I tend to wonder why my brother Hon. Dee, who is now exiting the chamber, why he is not satisfied with the marks that were awarded by the Committee.

Hon. Speaker, this Committee does not rubber stamp; we give marks depending on how one performs. So Hon. Speaker I want to say here that the gentleman is well qualified, competent and I am very sure we will see value for his service.

Hon. Speaker as I support this Motion or this report, I want to give notice to the other CECMs. The Appointment Committee has got no business now. If any other member wants to resign, let him or her go ahead and resign. There will be no lacuna in this County Government.

(Applause)

Just go ahead, resign. The Governor will bring another name, we will sit as a Committee and we will approve that nominee. One time Hon. Speaker, a former president of this republic gave advice and he said, 'the offices we are holding today will host other Kenyans while we watch.' So we should not start articulating items, my office, my desk, my computer; that office will host another person while you watch.

So this is now a notice we are giving the CECM and other officers holding these offices, including ourselves. Let us do our work with what we call zeal and due diligence, so that when we are not in that office, comparison can be done; the person who is there present and the person who left, who is doing better or who did better. So Hon. Members I want to thank you for supporting the Committee. The report is self-explanatory. Thank you, Hon. Speaker.

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

Hon. Boniface Katiti (Muthetheni, UDA): Thank you, Madam Speaker. I want thank to the Committee on Appointments for the exemplary work they did and I am taking this opportunity to thank them because as the Vice-chair, Youth, Sports, Gender and Social Welfare, we were so much suspicious of what would happen because of the exit of the former CECM, Sports.

We are so much delighted for what has happened. Thank you for replacing Hon. Mutisya Sky with this new guy who I can see he has wide knowledge. I can see he has travelled all over and I know he will come up with good policies that will make the laws and policies that are good for our youth and the County.

Hon. Speaker: Thank you, Hon. Member. Hon. Hellen Ndeti.

Hon. Helen Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. Unfortunately I was not here when we were going through the report but I am sure we have a very capable Appointments Committee. I am sure they have done a very good job.

I happen to know Mr. Kilonzo for many years and I know he is a very competent person so as a County, I think we are blessed to have such a resource in our County. Thank you.

Hon. Speaker: Thank you very much. Hon. Mbuva.

Hon. Charles Mbuva (Kangundo West, GDDP): Thank you, Madam Speaker. I also wish to add my voice as I support the approval of the nominee. Madam Speaker, I know the Committee on Appointments to be composed of very competent Members who would ably represent this House in cross-checking and also awarding the nominee marks for suitability.

Madam Speaker, I would want, while the mover will be responding or making his final remarks, at least to confirm if they asked two questions. It would be very important maybe they tell us if they asked this person whether they have the capacity to withstand heat because people are coming to these appointments with a lot of expectations.

Maybe we would want the mover while making the final submissions or responding to tell us whether they have really asked the nominee his expectations including in terms of remunerations.

The biggest motivation why people seek jobs is their take-home maybe. It is time now we do not hide behind curtains; even ask somebody what is your expectations in terms of what you will be earning? People get to hear of these positions and they think they are very lucrative. Sometimes after even getting the position, they find it is not as lucrative as they thought.

I do support; I know the Committee on Appointments has done a good job but confirm to us to what extent did you canvass to know if the second nominee would not resign because it will

be very unfortunate if it happens once again. Also how much did you dig in to know the expectations of the nominee? Madam Speaker, I support.

Hon. Speaker: Thank you very much, Hon. Member. Therefore while the mover will be responding, he should take into considerations such concerns. Whether the nominees understand their expectations on remunerations and of course whether they are ready to work so you respond on that. Hon. Rosina.

Hon. Rosina Kanini (Nominated, WDM-K): Thank you, Hon. Speaker. Madam Speaker, I want to applaud the Committee on Appointments for work well done. Hon. Speaker the nominee having traversed the County with the Governor during campaigns, I am very sure that he will be able to assist the Governor in achieving her manifesto and I wish him well. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Rosina. I wish also to refer to the comments made by Hon. Ndawa stating that the Committee needs work so the CECMs are put on notice. They should know that the Committee has no work now; it will be ready to do more work soon so they are put on notice to work very hard not to pass through the Committee's hands again when they are being replaced. At this point I want to invite the mover of the Motion to come and respond.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker. Thank you, Hon. Members for the highlights you have accorded to this Committee. Madam Speaker, you realize that this nominee has been heading several institutions on sports and that at least gave him good marks because he worked with Orbit Sports whereby he introduced Nike products in the country. He is also the pioneer of Masaku Rugby Tournament which I believe he is an official up to date.

Madam Speaker on the issue of expectations, especially the financial expectations, it is expected of anyone who had gone through this panel to have read and understood the financial expectation.

I believe it has been an issue with some of the nominees that have passed through this Assembly. Some have been expecting maybe lucrative positions but what I would say is just as Mheshimiwa Minority Leader said, the Committee is ready for any other Member who feels that he or she needs to resign. At least we will have something to do.

(Applause)

Otherwise if some of them do not resign, the committee might be idle. If somebody is not complaining about the salary, imprest or DSA, then what else could make one resign? It means there is something extra he or she was expecting from the department.

What we are saying this time is, let County Government money be protected to the last coin so that our people may get development. If we start thinking of those who are going to resign and those who will not resign, the County will not move to the expectations and you know our people have got high expectations from our performance.

Madam Speaker I believe the nominee will do well according to the way he presented himself. I believe he is going to take sports to the next level. Madam Speaker, thank you.

(Applause)

Hon. Speaker: Thank you very much, Hon. DS.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: The House adjourns to 25th July, 2023 at 2.30 p.m.

The House rose at 12.20 p.m.