

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS

OFFICIAL REPORT

Tuesday, 28th March, 2023

The House met at 2.36 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR
INVESTORS FORUM AT THE GOVERNOR'S OFFICE

Hon. Speaker: Good afternoon, Hon. Members. I have a communication to make on Investors forum invitation at the Governor Office. The County Assembly is in receipt of an invitation to an investor's forum at Her Excellency the Governor's office scheduled today 28th March, 2023. The program was scheduled to start at 9.00 a.m. today.

However, it is worth noting that the House, in its sitting on 14th March, 2023 approved the Assembly Calendar and consequently today being a sitting day, the House was resuming from its short recess. I therefore nominated Hon. Stephen Mwanthi, the Deputy Speaker to represent the County Assembly in the forum. Thank you, Hon. Members.

NOTICE OF MOTION

UPGRADING MWALA-KANGUNDO ROAD TO BITUMEN STANDARDS

Hon Speaker: May I invite Hon. Dickson Maundu to proceed and give the notice.

Hon. Dickson Maundu (Kangundo Central, MCCP): Thank you, Madam Speaker.

Hon. Speaker, that aware that Article 189(2) of the Constitution of Kenya on cooperation between National and County Governments provides that the National Government and the County Government, shall co-operate in the performance of functions and exercise of powers;

Cognizant that accessibility is the driving factor for rural development and that H.E the Governor, during her speech in this Assembly on 27th September, 2022, vowed to improve access to roads and mobility;

Aware that this mobility cannot fully be achieved without addressing cooperation between the National and County Government on shared responsibilities in the roads sector;

Informed that Kangundo-Mwala road which in terms Schedule 4 of the Constitution that deals with functions of both levels of Governments is classified under the functions of National Government and the said road forms a nerve

Centre of development and accessibility between Kangundo and Mwala Sub-Counties;

Further aware that in the last financial year, the National Government through its spirit of cooperation of governments stated in Article 189 of the Constitution of Kenya constructed many roads in Machakos County through the Kenya Roads Board but this Kangundo- Mwala road despite its strategic location did not qualify as one of those roads.

Hon. Speaker, I wish to give notice of Motion that this House resolves that the County Government of Machakos;

(i) Liaises with the National Government to upgrade the Kangundo-Mwala road to bitumen standards in order to enhance accessibility and development across Kangundo and Mwala Sub-Counties.

(ii) Allocates its share of budget in the FY 2023/24 and undertakes road work surveys in the said road in readiness for implementation of this program.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member.

STATEMENT SOUGHT STATUS OF COUNTY WAGE BILL

Hon. Speaker: May I invite Hon. Vincent Mutie to seek his Statement.

Hon. Vincent Mutie (Upper Kaewa, WDM-K): Thank you, Madam Speaker. I rise to seek a Statement concerning the status of the County wage bill.

Hon. Speaker, aware that section 107(2)(c) of the Public Finance Management Act of No. 18, 2012 states that the Country Government's expenditure on wages and benefits for its public officers shall not exceed a percentage of the county government's total revenue as prescribed by the County Executive member for finance in regulations and approved by the County Assembly.

Hon. Speaker, further aware that Section 25(b) of the Public Finance Management Act (No. 18 2012) regulations states that, the limit set under paragraph (a) shall not exceed thirty-five (35) per cent of the County Governments total revenue; Acknowledging that the audited Machakos County Financial statements for financial year 2021/2022 indicated that the wage bill of the executive is at 58 per cent;

Further, Her Excellency commissioned a Human Resource taskforce to look into the issues of the County wage bill with complete details of documents verification including Biometric data collection for all employees within the shortest time possible.

Hon. Speaker, cognizant that in the financial year 2022/2023, the wage bill was at 61.9 per cent and the County Fiscal Strategy Paper for the Financial Year 2023/2024 proposes a 51 per cent wage bill of the total Budget which is against the set limit of 35 per cent of total County Government Revenue;

Further, the County Public service Board through the Department of Finance, Economic Planning and Revenue Management advertised for a total of 435

positions on three months contract and one staff (advertisement annexed) on a three-year contract which will reflect on the wage bill.

Hon. Speaker, I wish to seek a Statement on the following from the Chairperson Labor and ICT Committee:

- (i) The initiative by the County Executive to manage the wage bill as stipulated by the Public Finance Management Act of No. 18 2012.
- (ii) Why the County Government, through the Department of Finance, Economic Planning and Revenue Management, has placed an advertisement on the Daily Nation dated Thursday, 22nd March, 2023 on page 20, seeking to recruit more personnel despite this challenge.
- (iii) The County Government undertook a Human Resource Audit; I also intend to know what is the status of the audit report and why has the report not been forwarded to the Assembly.

Madam Speaker if you will allow me to speak a little bit about this Statement. We all are aware that we are working so hard so that we can have more money into development rather than expenditure and that is recurrent expenditure as this will affect the level of development.

Madam Speaker, we have seen and Members have seen and I also know you Madam Speaker has seen that there has been a recruitment spree by the Executive yet there was a taskforce that was first to establish the ideal situation in terms of staff and also identify the gaps in terms of deficit. That report has never been tabled neither has it been shared with the Assembly.

Madam Speaker, a background check on the advertisement by the department of finance indicates that the County Government intends to spend an extra Ksh. 159 million a year so that these new staff can be remunerated.

The question that this Statement seeks to establish by spending Ksh. 159 million a year, what will the County Government get in return. Of course, there were other adverts that the department of finance had placed. Madam Speaker, although that advert was cancelled, as to why it was cancelled we still do not know. A background check also shows that advert alone if it was to go through the County would still spend an extra Ksh. 323 million a year.

What this Statement seeks to establish is what the return on investment is if we spend Ksh. 159 million in hiring new staff. What is the Government going to get in return in terms of revenue or are we going just to expand our wage bill at the expense of development? Madam Speaker, I thank you

Hon. Speaker: Thank you. Members, I want to call two three Members to ventilate on this matter. Members you are not willing to ventilate on this matter? I can proceed and commit it to the Chair of ICT and Labour. Proceed.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker, I do not know whether you have already committed it. Madam Speaker, with the knowledge I have about the procedures of the Assembly, I know that Statement is committed to the Committee that I Chair. However, Madam Speaker, because you have not committed I want to thank the Member for Upper Kaewa for raising this issue. I want to be very sincere that he is bold enough. Not using unparliamentary language....anyway let me not use that unparliamentary language. I want to say he has something which is made of steel.

Members, I think you have understood what I am trying to say. I am trying not to use unparliamentary language. Not many would have sought this Statement because I know seeking for this Statement one can be labeled and profiled for not supporting the Government but Members let the interests of the people who elected us come first. That is why I am saying I am congratulating the Member. This is been referred to my Committee, I preserve my comments. Thank you.

Hon. Speaker: Thank you, Hon. Members. I proceed and commit that Statement to the Labor, Public Service and ICT Committee to report on or before 11th April, 2023. Thank you.

MOTION
APPROVAL OF MOTION ON MARKING OF
BOUNDARIES FOR ACCESS ROADS IN THE COUNTY

Hon. Speaker: May I can upon Hon. Peter Kilonzo to proceed and Move his Motion.

Hon. Peter Kilonzo (Mbiuni, UDA): Thank you, Madam Speaker. I would wish to move this Motion on approval of motion on marking of boundaries for access roads in the county.

Hon. Speaker, that aware that the Fourth Schedule of the Constitution of Kenya, 2010 provides for Land surveying, mapping and boundaries and fencing as a function of County Government;

Aware that pursuant to Article 62(2) of the Constitution of Kenya, 2010 provides that public land shall vest in and be held by a County Government in trust for the people resident in the county;

Informed that the exercise of surveying, beaconing and mapping of rural access roads in most parts of Machakos County were done way back in 1970s;

Further aware that since that time and with increasing demand for land for farming and settlement, the said access roads have been encroached and their sizes drastically reduced Madam Speaker;

Considering that Article 62(4) the Constitution of Kenya 2010, provides that Public land shall not be disposed of or otherwise used except in terms of Act of Parliament specifying the nature and the terms of that disposal or use;

Cognizant that accessibility is the driving factor for rural development and that H.E the Governor during her speech in this Assembly on 27th September, 2022, vowed to improve access roads and mobility and that this mobility cannot be achieved before undertaking fresh marking of boundaries of rural access roads;

Madam Speaker noting that from the same speech the County Government started and intensive road grading programme dubbed as Barabara Mashinani and that fresh marking of boundaries of rural roads in the County is critical for the purpose of preparedness and meaningful grading work;

Hon. Speaker, I wish to move the motion that this House resolves that the department of lands and physical planning:

1. To facilitate public participation to the residents of Machakos County bordering areas of all rural access roads to sensitize them on the boundaries of access roads and then
2. Undertakes the exercise of marking boundaries of all access roads in the County Madam Speaker.

At this time Madam Speaker, I wish to call the leader of minority Hon. Mbili Ndawa, to second the motion. Thank you.

Hon. Speaker: Thank you, Hon. Member. Hon. Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCC) seconded

(Question proposed)

Hon. Speaker: I now invite Members to debate this motion. Members it is your turn to debate the motion. Hon. Majority Leader.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I stand here in this House first of all to support the motion bearing in mind that what was the topic in the morning that every other member was saying, the roads that we are grading are very narrow, they have brought motorable so it is very important that we first of all identify all access roads within the County and the surveying be done because I know even where I come from there is a lot of encroachment in public roads.

People keep shifting the famous *Ikonge* to eat on the public land so through this process especially of surveying public roads, it is going to ensure that those who are going to do the grading, first of all do not encroach on peoples' land and they grade the right size of road. Also in marking and surveying public roads, we will reduce the number of cases that we are called to do in our Chief's offices every other day because people have grabbed public roads. So I support and I wish to congratulate the Member who thought that this is a good motion. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. Hon. Katiti and then Hon. Muoki; in that order.

Hon. Boniface Katiti (Muthetheni, UDA): Thank you, Madam Speaker. I want to thank my colleagues, Member of Assembly from Mbiuni ward because he has seen the challenges that every Member in this County is facing. The challenges are real, the grievances are real and we cannot do the way I said in the morning; grading of the roads cannot be done to completion because the roads there are narrow and we need that kind of surveying and mapping.

The other thing I want to commend him and remind that the County Government of Machakos is that we have the little number of surveyors. I do not think they are more than five. The County surveyors are few and we need to increase them so that, that kind of project can be done as quickly as possible. So I support the programme and I support the motion. Thank you so much.

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

Hon. Muoki Musila (Ndithini, WDM-K): Thank you, Madam Speaker, for giving me the opportunity to contribute on this and more so now that I am the Chair of roads committee. I do know, as we were doing this particular exercise of Barabara Mashinani, we have encountered all this sorts of encumbrances in to the roads by individuals. As we were doing the roads, not once

not twice, and I am sure not only in my own area whereby mistake was done, I send the grader and as it was grading it went through our colleague's *shamba*. I only talked to him not to box me so that we can correct things later on.

So, I am trying to say that this is a motion that is coming at the correct time if not late. I do remember a little earlier, I had talked to the CECM Lands and I was requesting for surveyors to go down on the ground and do the beaconing of all public roads including KeNHA, KeRRA, KURA and the County Roads because this is affecting not one class of roads but all roads in general. So if this one can be done like yesterday, it would be helping this County greatly in enhancing communication from different parts of the Counties and even our neighboring Counties because we would not be sticking or we would not be working on any bodies land rather on the land that has been earmarked for the construction of the road.

I would also say that it would be important as my colleague Hon. Katiti has said, the surveyors are very few. My proposal would be so that we can beat the deadlines and since every other ward has got a grader that is doing some work in that particular area, we cannot afford to wait for one surveyor to come from one end of the County to the, yet we want to do the grading at the same time. I would rather we get or we approve or whichever way we need to so that we can increase the number of surveyors even if it means for this particular purpose in time so that we can be doing our work in good time. We do not have to delay because it has not been surveyed.

So Madam Speaker I am saying I am supporting that motion and I would wish this House approves it the quickest it can do and we see things being done on the ground so that my department can do its work without any hindrances. Thank you, Madam Speaker.

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

Hon. Mbili Ndawa (Matuu, MCCP): Thank you, Madam Speaker. I will start by congratulating my young brother here Hon. Kilonzo for coming up with this motion. I was here the last five years and the same problem was there and nobody, no MCA attempted to bring such a motion. So I want to say thank you for coming up and identifying this problem which has been there for decades. Hon. Speaker, the motion is timely and it has come a time when the County Government or the Governor is busy and is committed to ensure that our roads are passable.

Hon. Speaker, it is evident, if you go to those rural roads, if a vehicle is going one direction and an ox cart is going opposite direction, the moment they meet, the only vehicle which can go reverse is the vehicle because the ox cart has no reverse gear and you find that maybe you are going to rescue somebody somewhere. Maybe it was an ambulance which was rushing to pick a patient and it has met that ox cart and maybe the driver may not be competent enough to reverse. You might be forced to reverse for one kilometer or half a kilometer so you will spend a lot of time there.

Hon. Speaker, there is urgent need for us to expand these roads. Let us assign our surveyors; if we do not have enough surveyors we can contract these services. We can employ people for this particular purpose so that we can have our roads go as per the roads standards.

Hon. Speaker, another comment I want to make is this, we need also is why we have people encroaching on roads. It is either because there are no remedies that have ever been used or there are no sanctions that have ever been used for those who commit that offence. Hon. Speaker, as a House, we need also to come up with our own rules to ensure that we protect our

roads because even if we go and put our beacons because we are not seeing to be serious the same problem is likely to recur.

Hon. Speaker, there is one question I have never gotten an answer and maybe you can advise the Members and I. Why are people or farmers interested in those two feet or one meter which is next to the road and the other portion which belongs to that particular person he has not done anything to it. It is just there very big portion that he has not cultivated or grown anything but he is interested on those two feet.

This is something that we need to find out because I am very sure those two meters or 10 feet cannot satisfy somebody. Even if you are given the entire road to grow your crops you will not be satisfied if you cannot be satisfied with your 10 or four acres. So we need to be more serious.

Hon. Speaker, as we talk of the rural roads we should also not forget the urban roads. You will find that in our towns and this is a problem being caused by some of our officers who are employees of the county government especially those who man the towns. You will find that there was a road here and as you come tomorrow you find a kiosk has been erected and that road has been blocked and if you follow how the kiosk found itself there, you will find that monies have exchanged hands and somebody has assigned that particular person to do business there.

So, Hon. Speaker, that is why I am saying we need to be more careful on issues of roads and everybody needs the road whether you own a car or not. You can fall sick and need evacuation. You can decide to construct a house, a plot or anything else and you will need a road to transport your materials to the construction site. So everybody needs roads.

Hon. Speaker, the other issue, in the morning we had a similar business and one Member said, and I agree with that Member, that most of our roads are just like rivers. I think that was Mheshimiwa Johana. You will find that the road is at the lower side and you will find that the road is at the lower side and the other sides are bushes so when it rains all the water goes to the road; that is why we keep on grading. We need to make sure once we have erected the beacons, we do bush clearing to ensure that when it comes to time of grading we also put meter drains. After you have done grading, you need to have a small stream on either sides of the road so that the water drains and does not accumulate at the road to ensure that our roads are in good state.

Lastly, Hon. Speaker, I am worried to hear that we have few county surveyors; it is a requirement that we have a Sub-County Surveyor so how come we are now talking of three or four and we have nine sub-counties. In Yatta, whoever was there I know their case he had some.....and he was relieved so we expect a replacement. As we advertise these positions which Mheshimiwa has sought the Statement for revenue let us consider other departments so that every department is well taken care of?

So, the motion is timely and I am requesting now, since it requires budget and we are in the budget-making cycle now, let us ensure that we set aside funds to facilitate this issue of marking the roads. We do not need to say let us go and do this and we do not know where the money will come from.

Then finally, Hon. Speaker, I do not want to take you back to the business which has already gone but any business that touches money, as you commit it to the other committees the Finance Committee is interested/affected party. Thank you, Hon. Speaker.

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

Hon. Mutisya Kivuva (Nominated, WDM-K): Thank you, Madam Speaker. I want to commend the mover of the Motion Hon. Peter Kilonzo who is my good friend for this timely piece of work. I am one of the serious contractors of this County and I can tell you for free, we have serious problems when it comes to the demarcation of County roads. KeNHA have their roads demarcated by the way by way of concrete; it is very difficult to encroach a KeNHA road same as KURA and may be Kenya Rural Roads. The problem is County roads and the smallest or the shortest road, the width of the shortest County road should be three meters from the middle of the road, which is if you if you calculate it in six meters but we have roads, which are less than three meters; the whole of the road is less than three meters.

The problem now comes to our Hon. Members, because once the surveyors begin the process of demarcation, of course, those affected will run to the offices of the Hon. Members and cry foul that 'my *shamba* is gone.' My plea Hon. Members is to stand with surveyors so that the road can be clear. So when the process of grading will have no problem of the demarcation. Madam Speaker, I support the motion; the problem is County roads. Thank you.

Hon. Speaker: Thank you very much, Hon. Kivuva. Perhaps we could also pass some legislation to have our roads demarcated by concrete. Can we do something like that because seems like the issue is really serious? Mheshimiwa Ndawa was wondering why somebody would be interested in a very small portion of land that is on the boundary leaving entire land that he owns and is not working on it. So I think it could be timely for us to have some legislation in place to have our roads demarcated by concrete the way KeNHA are doing Kura are doing. Thank you, Hon Member. Hon. Muoki and Hon. Mwonga.

Hon. Muoki Musila (Ndithini, WDM-K): Thank you, Madam Speaker. Something else that has come up and I have remembered---

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker, is it in order for a member to contribute twice in one on the same issue? I don't think it is in order Madam Speaker although we are learning.

Hon. Speaker: We are learning; allow them just to say and then you can. I will give you an opportunity to kindly. Mheshimiwa Muoki.

Hon. Muoki Musila (Ndithini, WDM-K): Thank you, Madam Speaker. I just wanted to shed some more light on an issue that I thought is important for us to come up with a solution. I did go to the CECM as I had said later earlier on, and I was asking him; why can't we have the concrete beacons demarcating roads be it KeRRA or County roads. That one I want to tie it with what our colleague, the Minority Leader had said a little earlier on budgets. What the CECM told me is that, yes, they will come or you will send me surveyors and the best they can do is to plant *ikonge* and if I have to do any concrete beacon, I pay myself.

Hon. Speaker: You see we are going back to the same problem.

Hon. Muoki Musila (Ndithini, WDM-K): What I am trying to say is Madam Speaker with all due respect, is that when we are talking about the surveyors going to the ground, let us have enough budget for that so that we can have beacons done in concrete.

Secondly, I had also been told when the surveyors come on the ground, I have to take care of them so we need their upkeep given to them directly and not to be taken to the MCAs. *Tafadhali!* Thank you.

Hon. Speaker: Thank you and the solution is with us here that we are the ones who pass the budget; we need to pass a budget that caters for us so that we do not have to go to our pockets to facilitate them. Thank you. Hon. Mwonga, Father of the House.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Thank you, Madam Speaker. First and foremost, I want to draw to the attention of the Chair that we have a member who is not properly dressed.

(Applause)

This is a House of order and the decorum is paramount, Madam Speaker. So, do I sit so that you can make that ruling on what, Madam Speaker? That Member, assuming that the Chair is blind, that the Member is none another than the Chair, Health Committee and that is Member for Upper Kaewa/Iveti Ward, Madam Speaker. It is unfortunate we have Chairs sending very bad precedents in the Chamber.

Hon. Vincent Mutie (Upper Kaewa/Iveti, WDM-K): Madam Speaker, because my name has been mentioned. I think I have a right of reply.

Hon. Speaker: You do not have.

Hon. Vincent Mutie (Upper Kaewa/Iveti, WDM-K): Okay.

(Loud consultations)

Hon. Mbili Ndawa (Matuu, MCCC): Yes; point of information Hon Speaker.

Hon. Speaker: Yes. Hon. Ndawa.

Hon. Mbili Ndawa (Matuu, MCCC): Hon. Speaker, the matter is being raised here by Mheshimiwa Mwonga he is not in good faith; he is not raising that issue in good faith. Last time, we had the same issue and from where you sit, you made a ruling that when it is hot and one has a shirt which is very neat and as a tie, he qualifies to see it in this chamber. So Hon. Speaker using Standing Order 1, you can as well repeat the same determination that member is properly dressed. Thank you, Hon. Speaker.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Madam Speaker, I am adherent to the Standing Orders of the House and Madam Speaker, we cannot set a precedent which will be a problem to this House. Next time, Hon. Speaker, you will see somebody here without a tie and he will complain that it is hot. Madam Speaker, I think it is good we adhere to the Standing Orders.

Hon. Speaker: You said I make a ruling and you are not giving me that opportunity to do so. Without having to contradict myself in my earlier decision and without having to sit on my own appeal, I confirm that the Member, according to me and I am sure according to everyone, is properly dressed.

(Applause)

Hon. Mwonga, proceed and make your contributions.

Hon. Joshua Mwonga (Masinga Central, WDM-K): Thank you, Madam Speaker. Now to the motion before the House; I want to thank the Member for this motion I want to say it is well thought of and timely. Madam Speaker, all the Members have supported the motion before this House but the problem is the part of implementation. Madam Speaker, one of the reggae music legends, that is the late Lucky Dube sang a song and said; their parliamentarians make very good laws, they pass good motions, but the problem after that, It is that they are folded, kept in a cupboard under lock and key and nothing else happens.

Madam Speaker, I am throwing a challenge to the Committee on Implementation, although I cannot see the chair here, maybe.

(Hon. Maitha, the Chair of Implementation Committee spoke off record)

Oh, thank you; my brother sorry. You know I am used to see you seated on the other side. No, I had not seen him and I know he is equal to the task so, it is my wish that they will make sure this important motion because I know this House is going to approve it or pass it, is fully implemented to the letter. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Member. May call upon the mover of the motion to reply? Hon. Kilonzo please.

Hon. Peter Kilonzo (Mbiuni, UDA): Thank you, Madam Speaker. I would like to thank Hon. Members who have contributed to the motion and seen the need for us to have those access roads surveyed and have beacons for access of the roads in our areas. Therefore, Madam Speaker, I am very thankful and may God bless this House. Thank you.

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

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: The House adjourns to witness 29th March, 2023, at 10.00 a.m. in the morning.

The House rose at 3.23 p.m.