

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 29th November, 2017

The House met at 3.26 p.m.

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

PRAYERS

Hon. Speaker: Good afternoon, members. I am seeing the left side of my hand is a little empty, where are the members? Alright, let us get on with the business. Mr. Clerk.

(Laughter)

COMMUNICATION FROM THE CHAIR
REPORT OF THE AUDITOR GENERAL

Hon. Speaker: Hon. Members, on this order I have a communication and it is on the report of the Auditor General. Hon. Members, the Assembly received a report from the Auditor General on 6th November, 2017 in accordance with Article 229(7) of the Constitution of Kenya, 2010. The report is on the Financial Statements of Machakos County Assembly Car Loan Scheme Fund for the Year ended 30th June, 2016.

Hon. Members, the report is hereby committed to the Public Accounts and Investments Committee, and that Committee is required to interrogate the report and file its findings in the House within three months as per the provisions of Article 229(8) of the Constitution of Kenya, 2010.

It is important that, that committee notes that the three months given is the maximum period so once you interrogate the report, you can do it even earlier than three months but do not exceed three months.

STATEMENT
MOTIONS REFERRED TO ENVIRONMENT, LANDS, ENERGY AND NATURAL
RESOURCES COMMITTEE

Hon. Speaker: Hon. Members, under this order, we have a statement as per the appendix by Hon. Kisini.

Hon. Kisini: Thank you, Madam Speaker. The following motions were referred to the committee on environment, lands, energy and natural resources.

1. Management of Kibauni water project.
2. County tree planting week policy.
3. County cleaning program.

Hon. Speaker: Just a moment, Hon. Kisini.

Hon. Kisini: Madam Speaker, the report of the above tasks is due for reporting in this Hon. House. This is because the House has been on recess, and the county executive is yet to submit some relevant documents for consideration. Madam Speaker, I therefore wish to seek for the extension of three weeks to enable the committee finalize and report on the above tasks. Thank you, Madam Speaker

Hon. Speaker: Thank you, Hon Kisini. Hon. Members, I have been consulting the Clerk about your calendar because I am seeing the period that is being sought is going to be caught up in the recess that is about to come and that is what I want to get. So, Hon Kisini, I notice that on your statement you are seeking an extension of three weeks; what is going to happen is that the House will give you three weeks but you notice that your report, the earliest that it can come is 13th February, 2018 because of the December recess.

So you are granted that but make sure that on the 13th February, 2018 in the sitting of this House, that report should be tabled.

MOTIONS

FORMATION OF PEOPLES' ASSEMBLY

Hon. Speaker: Hon. Members. Under this Order Paper, we have two motions as per the appendix and I call upon the Hon. Francis Ngunga, Majority Leader, on the first motion.

Hon. Ngunga: Thank you Madam Speaker. Good afternoon, Members. Last week Madam Speaker, I did give a notice of motion on the formation of the Peoples' Assembly, and today I stand here again to indicate to you that from then, circumstances have changed because this motion was referred to the House Business Committee and it was apportioned time for discussion today.

So, Madam Speaker, I seek your guidance on this because since we have received orders from the High Court of Kitui about the same. So, Madam Speaker, I will be seeking your guidance on whether to proceed on the motion. We need directions as a House. Thank you, Madam Speaker.

Hon. Speaker: Hon. Members, my seat has been requested to give direction on this motion. I have also noted that in the newspapers, particularly the Standard newspaper; I am

holding the Standard newspaper, Hon. Members, and I think there must be several newspapers circulating in the republic of Kenya. The Wednesday, 22nd November, 2017 Standard newspaper has a publication of an order and I have read that order and I see that one of the orders that the court gave was that, this order be served by publication in the newspapers and this is one of the newspapers.

I noticed that the court has issued orders that have an impact on the motion at hand and I will direct that the mover of this motion will suspend it and meanwhile, the motion will go back to the House Business Committee and I would advise the mover, if you are still interested in this motion, you need to seek legal advice and then you will come and address the House when you have got that legal advice as far as this order is concerned.

This is a House that should respect court orders and that is why we have to suspend this motion. It is so ruled.

(Applause)

Hon. Ngunga: Thank you, Madam Speaker. I think we are much obliged by that advice. Thank you.

SUSPENSION OF OPERATIONS AND STAFF OF THE DEPARTMENT OF FINANCE AND REVENUE COLLECTION

Hon. Speaker: The next notice of motion as per appendix still. I am calling upon Hon. Cosmus Masesi, the chairperson Finance and revenue collection committee.

Hon. Masesi: Thank you, Madam Speaker. Hon. Members, good afternoon.

Madam Speaker, that aware that financial operations of the department of finance were suspended on 18th August, 2017 and all the officers in the department and those seconded by the department to other departments sent on leave;

Aware that as a result of this, a statement, a petition and a motion were tabled in this House at various dates;

Noting that the three issues were referred to the Finance and Revenue Collection Committee and Labour, Public Service and ICT committee for joint consideration;

Aware that the Joint Committee of Finance and Labour held its sittings pursuant to Standing Order 182 and inquired into the matters referred by the House and compiled a report;

Madam Speaker, I wish to move the motion that this House considers and approves the report of the Joint Committee of Finance and Revenue Collection and Labour, Public Service and ICT on suspension of operations and staff of the Department of Finance and Revenue Collection.

Madam Speaker, again I wish to call upon the Hon. Member Muthetheni ward, Hon. Munguti to second this motion. Thank you, Madam Speaker.

Hon. Munguti: Thank you, Madam Speaker. I stand before this House to support the motion which was actually to be tabled by the two committees in this House. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Masesi and Hon. Munguti. Hon. Masesi, can you read your report.

Hon. Masesi: Thank you, Madam Speaker.

Hon. Speaker: Can you assist the Hon. Member with a bottle of water where he is standing.

Hon. Masesi: And soda please.

Hon. Speaker: Water not soda.

(Laughter)

Hon. Masesi: Thank you, Madam Speaker. I wish to ask the Hon Members to help me go through this report of the joint committees of committee of Finance and Revenue Collection and Labour, Public Service and ICT committee on suspension of operations and staff of the Department of Finance and Revenue Collection, Madam Speaker. To start with is on the table of contents, you will see the list of tables;

We have preface, committee inquiry on the petition, committee inquiry on the statement, committee inquiry on the motion, recommendations, adoption of the report of the committee and appendices.

Again on number IV, we have the list of table which should be used as we go through this report, Madam Speaker. Number one is where we have the preface and I will start by number (I). The subtitle of the joint sitting of Committees of the Assembly.

Madam Speaker, the joint sitting of Finance and Revenue Collection Committee and Labour, Public Service and ICT Committee is provided for under Standing Order 182 (1) of County Assembly of Machakos Standing Orders, which states that 'two committees of the Assembly considering similar matters may, with the approval by the Speaker, hold joint sittings.'

The two committees are established pursuant to Standing Order 190 which provides that 'there shall be select committees to be known as sectoral committees whose members shall be nominated by the Selection Committee in consultation with Assembly parties at the commencement of every Assembly.'

Madam Speaker, on 27th September, 2017 a petition by staff of Finance Department of Machakos County Government, Executive, was tabled in the House and pursuant to Standing Order 201, committed to the Finance and Revenue Collection Committee and Labour, Public Service and ICT Committee.

On the same day, a statement on why staff of the finance Department of County Government of Machakos were suspended on 18th August, 2017 was responded to in the House pursuant to Standing Order 41(2)(c) and referred to the joint committee. Further, on 17th October, 2017 a motion on a matter of County importance was discussed in the House and referred to the joint committee.

Madam Speaker, the joint committee draws its mandate from the mandates of the two committees which are provided for in the Second Schedule of the Machakos County Assembly Standing Orders. The mandate of the Committee on Finance and Revenue Collection includes all matters relating to the management of County public finance and revenue collection. The mandate of Committee on Labour, Public Service and ICT includes all matters relating to labour, trade union relations, manpower or human resource planning; information, communication and technology.

Madam Speaker, the Membership of the joint committee is composed of members from the Finance and Revenue Collection Committee and Labour, Public Service and ICT Committee and comprises the following:-

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| 1. | Hon. Cosmas Masesi | - Chairperson |
| 2. | Hon. Jeremiah Munguti | - Co - Chairperson |
| 3. | Hon. Josephat Kasyoki | - Member |
| 4. | Hon. Betty Nzioki | “ |
| 5. | Hon. Brian Kisila | “ |
| 6. | Hon. Caleb Mule | “ |
| 7. | Hon. Fredrick Muthoka | “ |
| 8. | Hon. Judas Ndawa | “ |
| 9. | Hon. Justus Kiteng’u | “ |
| 10. | Hon. Margaret Mbithi | “ |
| 11. | Hon. Moffat Maitha | “ |
| 12. | Hon. Phoebe Koki | “ |
| 13. | Hon. Stephen Mwanthi | “ |
| 14. | Hon. Thomas Mutinda | “ |
| 15. | Hon. Agatha Mutindi | “ |
| 16. | Hon. Alex Kamitu | “ |
| 17. | Hon. Angela Munyasya | “ |
| 18. | Hon. Paul Nyanzi | “ |
| 19. | Hon. Constance Mbula | “ |
| 20. | Hon. Justus Katumo | “ |
| 21. | Hon. Irene Mbivya | “ |

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| 22. Hon. Joshua Muli | “ |
| 23. Hon. Rozina Kanini | “ |
| 24. Hon. Jacinta Luka | “ |
| 25. Hon. Francis Kioko | “ |
| 26. Hon. Nicholas Mutuku | “ |

Madam Speaker, in line with the provisions of the Constitution of Kenya, the County Governments Act, Labour laws and the Standing Orders of County Assembly of Machakos, the terms of reference of the joint committee, with respect to the tasks assigned by the House, are to inquire into:-

- i. The petition by finance staff of County Government of Machakos (Executive) tabled in the House on 27th September, 2017.
- ii. The statement on suspension of finance staff of County Government of Machakos responded to in the House on 27th September, 2017.
- iii. The motion on a matter of County importance discussed in the House on 17th October, 2017.

Madam Speaker, a petition was submitted to the Assembly on 25th September, 2017 by the staff of Finance Department of County Government of Machakos who were suspended from work on 18th August, 2017. The petition was submitted pursuant to section 15(1) of the County Governments Act which provides that, ‘a person has a right to petition a County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.’

The petition was tabled in the House as per Standing Order 194 and referred to the joint committee pursuant to Standing Order 201. The petitioners grievances were:-

- i. That they were suspended verbally from office without being informed the basis of such action and the duration of suspension.
- ii. That Executive Committee Member and Chief Officer in the department were not suspended and yet they were leaders of the department.
- iii. That Chief Officers in other departments were not suspended yet the accountants and procurement officers in these departments were suspended.
- iv. That the finance officers were not paid August, 2017 salary and while officers in other departments were paid.
- v. That the Governor used the media to destroy their reputation and professions by accusing the officers of being corrupt.

The petitioners prayers to the Assembly were as follows:-

1. That all the officers to be recalled to work with immediate effect.
2. That the Governor respect staff members.
3. That the officers be paid the August, 2017 salary.
4. That proper procedure is followed before suspending staff.

5. That County Government stops the use of media houses to brand officers as corrupt.

Madam Speaker, a statement was requested in the House on 20th September, 2017, and responded to on 27th September, 2017 pursuant to Standing Order 41(2). The statement sought why the County Treasury staff including all the accountants, revenue clerks, procurement officers and subordinate staff, and finance and procurement officers seconded to finance sections of other Departments of the County were suspended by the Governor on 18th August, 2017 paralyzing the activities and operations of the County Government.

The services affected included, collection of revenue, procurement of goods and services and requisition of funds from National Government. The statement also sought to know whether in the circumstances, revenue was being collected as stipulated, why the County Government was in a process of recruiting other officers and what the County Government was doing to ensure services delivery was not affected.

The statement response which the committee inquired into stated that:-

- i. That there were numerous complaints by the public and this led to suspension of the operations of finance department hence officers in this department had to be sent on leave.
- ii. That fair audit of staff and systems were to be undertaken.
- iii. Measures have been taken to facilitate revenue collection and mitigate against shortfall in budget financing.

Madam Speaker, a motion of adjournment to discuss a definite matter of urgent County importance was moved in the House on 17th October, 2017. The motion required the House to discuss delay in submission of a full list of County Executive Committee Members to the Assembly, failure to collect revenue, failure to procure goods and services, diversion of County revenue, suspension of staff, failure to pay County employees their salaries since August and frequent long foreign travels of the Governor which are affecting development of the County.

The committee inquired into failure to collect revenue as a result of directive of the Governor to stop revenue collection through a press statement on 27th June, 2017 as tabled during debate of the motion.

Madam Speaker, the committee held a hearing meeting on 23rd October, 2017 where the petitioners and the respondents appeared to provide evidence. The hearings were conducted in an open manner and the committee sittings were open to the public as provided for in Article 196 (1) of the Constitution and Standing Order 216 (1).

Madam Speaker, the joint committee is grateful to the office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the committee sittings and facilitating the committee to retreat. I wish to express my appreciation to the Hon. Members of the joint committee who sacrificed their time to participate in the activities of the committee and in preparation of this report.

It is therefore our pleasant, duty and privilege, on behalf of Finance and Revenue Collection Committee and Labour, Public Service and ICT Committee to table this report on suspension of financial operations and staff of the Department of Finance and Revenue Collection in this Hon. House.

Thank you, Madam Speaker.

Hon. Museku: Point of order.

Hon. Speaker: You have a point of order, Hon. Museku? Go ahead.

Hon. Museku: Madam Speaker, I would like to bring up a point of order requesting for adjournment of the reading of this report so that, first of all, it can facilitate the members to go through the report and also to be able to have and be better prepared to look at the report as it is a lengthy one before the House.

So, I was standing on a point of order for adjournment of the proceeding of the reading of that motion. I would request the Hon. Mutiso to second me if he so agrees on the adjournment.

Hon. P.J Mutiso: Thank you, Madam Speaker. I stand here also to support the adjournment on the same. Thank you, Madam Speaker.

Hon. Speaker: Hon. Members, may I propose that we adjourn this debate of the report so that members can have time to be able to read it and internalize it. I appreciate the importance of the report and it has several annexures the members need to internalize. In the meanwhile, we will, of course, thank the two committees that did the work as we wait the details of the work. So, Hon. Members, we are going to adjourn the debate, the report on the debate and I propose that we come back on the Tuesday, 5th December, 2017 at 10 a.m. that is Tuesday next week, members.

I believe that will give you time to go through the report. May I take this opportunity to remind you members that because this report is still not finalized, it is within your hands, it is upon you to ensure it remains in its integrity so that when we debate before the House and before it is completely either adopted or rejected by the House, its contents are safe? Let us retain the integrity of this report, Hon. Members. It is so ordered. Mr. Clerk.

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point we are going to adjourn and I want to notify you that we have a visiting dignitary, so you are not going home as yet. We are just adjourning briefly to bring in the dignitary so that you can hear what they have for you.

Hon. Members, we will only adjourn for 15 minutes to resume after 15 minutes. Thank you

The House rose at 3.53 p.m.