

# MACHAKOS COUNTY ASSEMBLY

## OFFICIAL REPORT

Thursday, 26<sup>th</sup> February 2014

The House met at 2.35 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]*

## PRAYERS

## COMMUNICATION FROM THE CHAIR

### VISITORS FROM EALA

**Hon. Speaker:** Hon. Members, as you may have learned from the office of the Clerk, we shall have a day's workshop tomorrow the entire day in Nairobi and we shall have visitors from the East Africa Legislative Assembly, about forty of them, in the afternoon so be prepared and develop ideas on how to interact with them tomorrow in the afternoon at Nairobi. They will be led by one of our own Mheshimiwa Mathuki. Proceed.

## NOTICE OF MOTION

### RELOCATION OF THE ASSEMBLY CHAMBER SITTINGS

**Majority Leader (Hon. Mwonga):** Mr. Speaker, Sir, I beg to give notice of the following motion; that this honourable house discusses the amendment of the dates to relocate the sittings from Machakos to Mavoko sub county. Thank you Mr. Speaker.

**Hon. Speaker:** Thank you.

**Hon. Muthuka:** Thank you Mr. Speaker and the House at large. I would like to give a notice of motion that this Hon House discusses the appointment of the County Chief Officers. Thank you.

**Hon. M. Mutuku:** Mr. Speaker, Sir, and the entire House, I beg to give a notice of motion that this Hon House discusses and clears Mavoko Water and Sewerage Company, the sole and legal water provider from Mavoko sub-county.

## STATEMENTS

**Hon. Speaker:** I thought there was a statement by the Minority Leader. Hon. Thomas Kasoa do you have a statement?

**Minority Leader (Hon. Kasoa):** Thank you, Mr. Speaker. I stand here to defer the statement until next sitting. Thank you.

**Hon. Speaker:** Proceed.

### MOTIONS

#### NAMING OF A MEMBER

**Hon. Speaker:** We will defer that motion until the member is present; the member who was named, specifically.

#### RELOCATION OF THE ASSEMBLY CHAMBER SITTINGS

**Majority Leader (Hon. Mwonga):** Mr. Speaker, Sir, I beg to move the motion that this Hon House discusses the amendment of the dates to relocate the Assembly sittings from Machakos to Mavoko. Mr. Speaker sir, aware that this House approved the Assembly sittings to be relocated to Mavoko to from 1<sup>st</sup> February, 2014 and come back to Machakos on 2<sup>nd</sup> May, 2014 to give room for renovation of the chambers; and further aware that the House has not yet relocated and the renovations have not yet started, I beg that this Hon, House that discusses the amendment of the dates of relocating the Assembly sitting as per the current Gazette Notice No. 18 to 18<sup>th</sup> March 2014 and come back on 27<sup>th</sup> May 2014.

Mr. Speaker, the same issue was before this Hon House sometime back and members agreed unanimously that we should relocate to Mavoko paving way for renovation of the chambers. Mr. Speaker, little did we know that the procurement process will take long. Since we had gazetted that we will be sitting in Mavoko and we have not moved to Mavoko, it is my humble request that Hon Members agree that we extend our stay here in Machakos and relocate on 18<sup>th</sup> March to Mavoko and come back on 27<sup>th</sup> May, 2014. I beg my counterpart, that is the Minority Leader, to second the motion, Mr. Speaker sir. Thank you.

**Minority Leader (Hon. Kasoa):** Thank you Mr. Speaker. I stand here to second the motion, as you are aware that the tendering process is going on, that we move to Mavoko on 18<sup>th</sup> of next month. Thank you, Mr. Speaker.

**Hon. Speaker:** Any contributions from members? The motion is open for debate. We can hear the Deputy Speaker.

**Hon. Nganga:** Thank you Mr. Speaker. I would like to make a proposal to that request that possibly we may not have to fix the dates because learning that we fixed the dates the other time and the procurement process may not be fixed or scheduled to move within a fixed time frame. We may agree as a House that whenever it will become necessary, then the motion for relocation will be

tabled and then the same shall be effected. So my proposal is that we make that amendment but we don't have to fix that we need to relocate strictly on 18<sup>th</sup> of this month. Thank you.

**Hon. Nzoka:** Thank you Mr. Speaker sir. I concur with my counterpart here that it is not appropriate to put the dates because when we talk of procurement, it may take more time than what we are thinking and again it may not be good for us to move from here to Mavoko when the contractor is not on site. So we have to settle, know the date then we move to Mavoko. Thank you.

**Hon. Speaker:** At that point we can hear from the mover of the motion to tell us what is the position of procurement today.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, before I came up with this motion, I had consulted widely but Mr. Speaker allow me to consent to the amendments. I have no problem with deleting of the dates.

**Hon. Speaker:** Thank you. Any other Honourable... Yes Ndeto

**Hon. Ndeto:** Thank you Hon Speaker. I do support the motion and at the same time I would to know if there will be a change in the mileage of some members if we relocate to Athi River. Will this be taken care of?

**Hon. Speaker:** That's ok, but that issue of mileage can be raised in another forum; let's deal with the motion. Any further contribution? Then do I move the question that the motion be approved as amended?

*(Question put and agreed to)*

#### PROVISION OF WATER BY MAVOKO WATER AND SEWERAGE COMPANY.

**Hon. M. Mutuku:** Mr. Speaker, Sir, I beg to move the following motion that this honourable House discusses the provision of water by Mavoko Water and Sewerage Company.

**Hon. Speaker:** As you proceed maybe I can see your motion. *(Member gives copy of motion to Speaker)*. I am sure you understand my problem.

**Hon. M. Mutuku:** *(Laughing)* Yes.

**Hon. Speaker:** The motion doesn't bear your name, it's lacking in dates but it has a very good signature. Maybe you can have some time I will consider your position. We can hear the next.

#### APPOINTMENT OF CHIEF OFFICERS

**Hon. Muthuka:** Thank you Mr. Speaker, Sir, and the Honourable members of the House. I beg to move the motion that this honourable House discusses the appointment of the chief officers. Mr. Speaker, Sir, aware that the Machakos County Government engaged 156 staff without having done human resource audit to determine the gaps and adequacies or otherwise in terms of the

existing staff at the time of transition; and aware that no evidence was provided to show the recruitment process used and also the staff portfolio and structures at the time of their engagement; and aware that the County Government Act, 2012 article 45 sub-section (1a) which states that the Governor shall nominate qualified and experienced county Chiefs Officers from among persons competitively sourced and recommended by the County Public Service Board and (b) with the approval of the County Assembly upon the officers; aware that article 45 (2) states that the office of the County Chief Officer, shall be in the County Public Service and the county chief officer shall be responsible for the respective County Executive Committee for the administration of the county department as provided for under section 46 of the County Government Act; aware that the Executive appointed chief officers on interim basis since its inception, the executive also appointed an we approved County Public Service Board more than six months ago, we expected to have been furnished with the names of the appointees to the county chief officers as their crucial role is provided for under section 46 of the County Government Act 2012, I therefore plead with this honourable House to discuss and support this very important motion to have the names of chief officers tabled in this honourable house for approval within the shortest time possible. I call upon honourable Nduva to second this motion. Thank you

**Hon. Nduva:** Thank you Mr. Speaker and honourable members of this House. It is a good will of this honourable House to oversight and to see Machakos County progressing or making steps to be the leading County in Kenya. Therefore, failure of the Executive to forward the names of chief officers for approval by this honourable House is a big question mark. Honourable members, this exercise is overdue and I therefore request this honourable House and honourable members to support this motion fully and I request the office concerned to make sure that these officers are brought to this honourable House for vetting. Thank you Mr. Speaker.

**Hon. Speaker:** Thank you very much. Now the motion is on the floor and is open for debate.

**Hon. Kitheka:** Thank you Mr. Speaker and the house at large. I wish to call upon the House to defer the motion until another time simply because of the following reasons: the labour committee has got a similar agenda which is going to the floor of the committee with the agendas of the report from the Public Service Board which has been brought to the House and we have another agenda of vetting of chief officers, the status which has been approved by the Clerk and the Speaker. I think it would be imperative for us to discuss this agenda at this moment so I kindly request the Speaker to give the indulgence required for this motion to be deferred and moved to the right committee. Thank you very much.

**Hon. Speaker:** Thank you. we can have... Yes?

**Majority Leader (Hon. Mwonga):** Thank you Mr. Speaker. I do stand not to support the motion, but to oppose it in totality. Mr. Speaker, this house is aware that they approved the County Public Service Board which is mandated to employ officers in our county. Mr. Speaker, the mover of the Motion should have sought a statement as to how far the County Public Service Board has gone

in employing these officers. Mr. Speaker, if the County Public Service Board was through with the interviewing of the chief officers, the procedure is that they communicate to the office of the Clerk, then the office of the Clerk will communicate to the office of the Speaker and the Speaker who is the chair of the Committee on Appointments will convene his committee to vet those chief officers.

So Mr. Speaker I think the House will be taking away the responsibility of the County Public Service Board which has not communicated whether or not they are through with the interviews of the chief officers. So Mr. Speaker I beg these honourable members of this House to oppose this Motion in totality and wait for when the time will be ripe for the County Public Service Board to present those members to the Assembly. Thank you Mr. Speaker.

**Hon. Speaker:** Thank you. Let us hear you

**Hon. Mbithi:** Thank you Mr. speaker. Mine is just a question of may I know from Hon Mwonga the Majority Leader, if the County Public Service Board may or may not be through with interviewing the chief officers, why have they been in office for more than six months? Thank you.

**Hon. Speaker:** Let us hear the Majority Leader.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, this House is aware that these chief officers are not on permanent basis but on contract basis as they await the outcome of the County Public Service Board. Thank you Mr. Speaker.

**Hon Speaker:** The Majority Leader, I think the question is simple; are you able to give this house a statement on the position of recruitment of Chief officers in the earliest. I think that is the issue that's being raised by the honourable member.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, that is why I said the mover of the Motion should have sought a statement. I am ready to issue a statement next week on Thursday afternoon.

**Hon Speaker:** Let us hear the Deputy Speaker.

**Hon. Nganga:** Thank you Mr. Speaker. Further to that as you have advised, I tend to understand that it is within the powers of the Governor to appoint, nominate in fact, the chief officers for this House so as you have correctly advised, then the Majority Leader should be able to furnish the House with the status of the whole process and then the names can be brought to the House for discussion so that the issue is cleared.

I think we are on the right track and if we can be able to have the names come then we shall be able to digest the whole issue and have the officers fully in office. Mr. Speaker, I have had wind from the various officers that some of them are not able to articulately do their job because they feel they are standing on one foot; one foot inside the job and another foot outside the job and that makes them fairly ineffective. I find the matter also urgent and of interest to the county so I would urge the

Majority Leader to move with speed in that regard so that we have the whole issue sorted. Thank you.

**Hon. Speaker:** Can we hear the mover of the motion... before the mover, let us hear you.

**Hon. Kitheka:** I think, Mr. Speaker, it is prudent enough for us to articulate the issues per as the way they are. I have said in this House that we have a report from the County Public Service Board which is in the Assembly. It's right now with us and we are supposed to be discussing it tomorrow in the Labour Committee and it touches on all these issues and on top of that, there is an agenda of vetting and approval of chief officers. So Mr. Speaker I don't see us continuing with this motion for long because it's already in a committee which is taking care of it. Thank you.

**Hon. Speaker:** Thank you very much. Let's hear Hon. Ndawa.

**Hon. (Ms.) Ndawa:** Thank you Mr. Speaker and the House at large. Mr. Speaker, I tend to disagree with honourable Kitheka with his committee, the Labour Committee because earlier before this Motion was brought to this House, this committee for Labour has been given different issues to handle and it has failed. Mr. Speaker, I think honourable Muthuka brought this motion to the correct place and not the Labour Committee.

**Hon. Speaker:** Let us hear Pastor Ndeto.

**Hon. Ndeto:** Hon. Speaker, I just need some direction from you and especially over the issue which Kitheka has raised. Is this supposed to be directed to the Committee of Labour or the Committee ,on Appointments?

**Hon Speaker:** Okay. Can we now hear quickly the mover of the motion.

**Hon. Muthuka:** Thank you Mr. Speaker and your chair remains honourable. Mr. Speaker, the reason behind my moving of this Motion is we have been dragging our feet for so long, almost one year. We have people purpoting to be on interim contract basis while they should be in permanent and pensionable working environment. Yesterday we were here talking about the reports which have never been submitted to this House. These same officers are incharge of these departments. If these officers are not employed, who will bring these reports in time? Where is the power of this House?

Yesterday, some of the members talked about committees with their chairs who are unable to articulate issues and to move with speed to perform their duties. We are not going to sit down and wait for heaven, and wait for rain so that we can get the job we are supposed to do done by the relevant committee. Mr. Speaker sir, I didn't need any statement from the Majority Leader. He has been in this House for so long. I think these are issues which if directed to the Majority Leader, then he should be furnishing us with this information and not waiting for us to beg for this information. Second, we know the Service Board has employed so many other people with appointment letters. As we talk know there are still interviews; they are interviewing sub county commissioners or

officers while we know that the chief officers were interviewed early this year but that information somebody has been kept in the cabin, I don't know waiting for which bell.

**Hon. Speaker:** Hon. Member, before you proceed, were you in the Assembly yesterday?

**Hon. Muthuka:** I was in the Assembly.

**Hon. Speaker:** You were in the Assembly?

**Hon. Muthuka:** Yes.

**Hon. Speaker:** You said that a report has been received from the County Public Service Board and that report is already here and we don't yet know what content it has. Can we give this motion a chance that we hear what is in that report? Maybe there is an answer to your worry.

**Hon. Muthuka:** Thank you Mr. Speaker. Maybe you may direct the relevant committee maybe to have a special sitting at night because we need those answers as quickly as possible. Thank you.

**Hon. Speaker:** Thank you very much. I thought we are out of that issue? Ok.

**Hon. Nzoka:** Yeah, Mr. Speaker I do concur with Mr. Muthuka because labour laws are clear. If you employ someone for more than three months, he must be permanent. This is something that we should tackle as soon as possible because otherwise they will take this county to court and we shall incur a lot of losses. Thank you.

**Hon. Speaker:** Thank you.

**Majority Leader (Hon. Mwonga):** Mr. Speaker, I beg that we don't dwell on this issue for long. As you directed Mr. Speaker and I said it here that I will issue a statement next week Thursday in the evening session I think my hands have put this issue to an end. So Mr. Speaker I beg that we don't dwell on this issue and I am ready to issue a comprehensive statement only on the issues of chief officers Mr. speaker. Thank you.

**Hon. Speaker:** Thank you. I think Members we shall now take this direction: as we wait for the statement on Thursday, the report is already in the Assembly. The report was received by the committee chair for Implementation because he was the one who had requested; then I will urge the Clerk to make the necessary effort to present the report before the right committee so that we can have a report on Thursday from the committee and from the Majority Leader. Thank you very much, lets proceed with the next Motion.

#### PROVISION OF WATER BY MAVOKO WATER AND SEWERAGE COMPANY.

**Hon. Speaker:** Hon Mheshimiwa from Mavoko I think this is a serious Motion, you need to make the draft a little bit serious. It's a serious motion. Now you have a little option and I allow you to exercise your rights.

**Hon. M. Mutua:** The Speaker, and the entire House. Mr. Speaker, Sir, I beg to move the following motion that this honourable house discusses the povision of water ..

**Hon. Speaker:** Hon. Member, you may be out of order; the motion is not dated, it doesn't have your name---

**Hon. M. Mutua:** I thought it has been rectified?

**Hon. Speaker:** The motion that I have, and this is the motion that I received on behalf of the Assembly, doesn't have your name, we don't know the mover, it is not dated and the mistake in this document is not curable.

**Hon. M. Mutua:** Okay. Thank you, Sir. Let me defer the motion for the next time.

**Hon. Speaker:** Please. I think that is wise. Thank you very much. Any other matter?

#### ADJOURNMENT

**Hon. Speaker:** Honourable members we don't have any further business, I am told. The House then adjourns. We will convene again on Tuesday next week.

The House rose at 3.06 p.m.