

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 5th November, 2014**

The House met at 2.53 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****COMMUNICATION FROM THE CHAIR****DISTRIBUTION OF BURSARIES TO THE BENEFICIARIES**

Hon. Speaker: Hon. Members, there is a communication from the Chair dated 5th November, 2014. Hon. Members, I am in receipt of a letter from the office of the Governor in pursuance of bursaries regulation, Legal Notice No. 001/2014 which requires establishment of ward committees to facilitate distribution of bursaries to the beneficiaries.

Further, the Chief Officer in charge of education department had requested the input of hon. members in initiating systems of screening prospective beneficiaries, through ward bursary committees, pursuant to Clause 11 of the bursary regulations. In this regard, Hon. Members, I urge you to hasten the process as per the said clause in order to dispense the bursaries to the appropriate beneficiaries. Thank you.

NOTICE OF MOTION**SUSPENSION OF TENDER TO PURCHASE WATER TANKS**

Hon. Muinde: Mr. Speaker, I wish to give notice of the following motion that this Hon. House discusses and approves the suspension of tender to purchase water tanks by the department of Water, Irrigation and Sanitation.

MOTION**SUSPENSION OF TENDER TO PURCHASE WATER TANKS**

Hon. Muinde: Mr. Speaker, Sir, aware that the department of Water, Irrigation and Sanitation advertised for tender to purchase water tanks to be put in strategic areas within the county, and aware that the department started construction of platforms for the said water tanks, contravening the PFM Act section 196 (1) that states that ‘a public officer shall not spend public money otherwise than authorized by the constitution, an Act of parliament or County legislation.’

Mr. Speaker, aware that the Budget and Appropriation Committee questioned the first phase of this project and that the sources of water for storage in this tanks are yet to be established, I wish to move the motion that this hon. house discusses and approves the suspension of the tender for purchase water tanks and construction of platforms by the said department until the first phase is cleared and this house is furnished with clear details including beneficiaries of the same until such a time when enough water sources are established and developed.

Mr. Speaker, I want to call upon Hon. John Sila to second the motion.

Hon. Sila: I do second the motion that the said tender be suspended. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. The motion is properly before us for debate and debate is now open. Let us hear those in support of the motion. I think we can take the first bunch of five, so Hon. Veronica, Hon. Raphael, Hon. Kitheka, Hon. Kathinzi, Hon. Ngunzi, Hon. Muthuka, Hon. Dominic.....(*Inaudible*)

Hon. R. Mutuku: Last financial year, there were tanks that were supposed to be supplied to all primary schools. This project was not completed and today we are talking of other tanks being distributed to the villages. Mr. Speaker, Sir, in totality, I support this motion that that tender be suspended completely. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Thank you very much.

Hon. Kitheka: Thank you Mr. Speaker. I wish to support the indefinite suspension of this motion which has been brought into this House---

Hon. Speaker: Sorry, you would want the motion suspended?

Hon. Kitheka: The project to be suspended indefinitely simply because of the following:-

1. In the procurement process, there were some issues which were not cleared in the last financial year and we are yet to get a report in this house.
2. Mr. Speaker, there was a very rigorous process which was done by the county government of Machakos of the water mapping where the government used a lot of money to do that exercise and yet there are no traces of the results of what happened. We still want the results of the water mapping exercise, which cost the government a lot of money, to be tabled into this house.
3. There was the issue which has been raised by my colleague, hon. Raphael about the tanks in schools. In my ward, Machakos Central, I have about eight schools, which did not receive the tanks or communication. And, Mr. Speaker, of late we have learnt that the people from the office of the executive are going round checking for the tanks in schools which they did not supply and when they find a tank, they are intending to mark the tank, even if it was bought by the school and indicate it is from the county government of Machakos, which is a very bad issue and it has happened in the school of the disabled.

I was with them there. I told them the tank which there was not bought by the county government of Machakos. So they had to walk away and say that in their books, the tank was delivered. So we want to iron out those issues of deliveries which did not materialize and then we continue with the process if need be, but I see there is an issue in the process of purchasing and procurement of this tanks. So, I wish we suspend the process completely. Thank you.

Hon. Speaker: Thank you. Yes hon. Kathinzi.

Hon. Kathinzi: Thank you Mr. Speaker. I would like to start by thanking the mover of this motion Hon. Isaac Muinde, for a well thought idea that we suspend this particular project. Mr. Speaker as you well know and I think I have some witnesses, when we were launching the programme for food and water in Masinga and tractors, I questioned and in Kivaa ward, I have got 46 public primary schools. 46 is a large number. But until to date I have only received 17 tanks so I have a balance of 29 tanks.

Mr. Speaker, it shows the government of Machakos intends to show that it is not following the rule of law. Therefore we need the first bunch of tanks to be supplied. Those balances of tanks I am being questioned by head teachers and principals of those schools. Therefore, that is one of my big reasons to support this particular motion.

Mr. Speaker, we also need detailed report on how the tanks were supplied. We have a report whereby schools were given 5000 litre tanks, instead of 10,000, Mr. Speaker. These are in records. If you go to the ministry of water in Masinga in other sub counties, you find that some of the schools were given only 5000 litres tanks instead of 10,000 litre tanks. Mr. Speaker, that shows impunity on the part of officers of that department and that should be punished.

Mr. Speaker, in addition to this, you find that a tank is being given to a school where the gutters and the iron sheets of the classrooms are very dusty. In fact they are cancerous to our own children. We need to get a regulation on how to check the treatment of this water when it is harvested from the roof. It is indeed cancerous for consumption of our own children.

So Mr. Speaker, I support this particular motion in totality and I request other members to support and do away with such behaviors of the side of Executive whereby ministers and Chief Officers are just doing things for their own importance, I don't know why, and without consulting the Assembly. So therefore, Mr. Speaker I rest my case there and I support. Thank you.

Hon. Speaker: Thank you.

Hon. Ngunzi: Thank you, Mr. Speaker.

Hon. Speaker: Proceed, Hon. Ngunzi.

Hon. Ngunzi: Mr. Speaker, thank you. I want to begin by saying that failing to plan is planning to fail and I am saying this when supporting this motion because when you want to be a nice farmer, you don't begin by building a granary when you have limited funds that do not even enable you to buy seeds.

I do not see how we begin by looking for the storage of the water that we do not have. How will the people of Machakos County treat this Assembly if they see tanks and tanks in villages that are going without water? The water source may never be found. I do not understand how this can happen. Whoever came up with this idea should be... (*Laughs*) I don't want to finish but Kibauni that is the driest part of this continent has gone without water for the whole of this year and I have been to the offices of the department of water day in day out.

They promised to supply machines to pump water from the River Athi that passes just nearby. The machines have not come, now they are getting it easier to supply my people, every village, with a tank when the people have gone without water and the tanks will again go dry. This is confusion.

I was in the office today and the earthmover that is doing dams in Mwala Sub-County is in Mwala. It is stuck there. It should be transported by a low loader truck that the owner says will

never come to transport the earth-mover because he has not been paid for the services he has rendered to this county since the inception of the earth movers.

Now we want to do another project. My schools are 29. I received 9 tanks. I am still waiting for a balance of 20 tanks. Now they want to add burden to burden. This is confusion. Mr. Speaker, we should totally suspend this project until all the earlier tanks are supplied and..... Yes. So I wish to thank you.

Hon. Speaker: May be Hon. Ngunzi, when you look up in the sky, you can perhaps find that the rain is coming tomorrow so maybe there was reason for the tanks.

Hon. Ngunzi: The tanks are not meant to be kept in areas where water cannot be harvested. They will be put in the villages, in the bushes, you cannot harvest water using the sky.

(Laughter)

Hon. Speaker: Thank you.

Hon. Muthuka: Thank you Mr. Speaker and the rest of the house. First of all, I wish to commend the person who had the idea to putting in the tanks. It is a good idea for storage because now we are tackling the biggest problem in our county which is water. That is why you see the debate is vibrant because now we are now tackling the basic problem, the priority of the county.

But then I would also wonder how would you go to milk a cow while you have not gone to buy it, while it is still in the market, while you don't have money for that cow? The reason is, we have been suspecting that our county is spending a lot of money in purchase. We are suspecting that some people are getting money, some people are getting kickbacks and that is why somebody is not ashamed to give a tender of more than 2000 tanks while they were unable to supply 898 tanks to our schools.

So Mr. Speaker, with all zest and with all power, I wish if we can throw this tender and never come again in this house because we don't need the tanks. We need the water. Now we are looking up and we are optimistic that we are going to get rain any time soon. We will be talking about constructing more dams, constructing more boreholes so that we can have enough water.

Our problem is not where to store the water. Our problem is where to get the water. So I think if we sit down, as this house together with the Executive, it is a brilliant idea but we cannot work in isolation. I believe whoever came with the idea has something funny and that is why we don't want to repeat the same problem. I toured Kathiani some time back, there was an MP who put the stands and tanks all over but now they are nowhere. It is just a waste of public funds.

So I think this is one of the white elephant projects, maybe I think this is a black one which, maybe, since tanks are visible and the media will all over show how Machakos has been

adorned with water and tanks but if you go to the taps there is nothing, so I request this Hon Members, not even this tender and many other tenders which are not beneficial to our people, we should suspend them then we sit down and then exercise fiscal discipline of our public finance that we have been given by the people.

And once we do that, sanity will come to our county and now the development that we have been singing about it will be visible and everybody will feel at home. Thank you. I wish to support this motion.

Hon. Speaker: Thank you very much.

Hon. Maitha: Thank you. I was waiting and waiting Mr. Speaker. Mr. Speaker, Sir, I am grateful you have recognized my hand and I have happened to have passed through the cashier's office and my left back side of the pocket is loaded. I wish to congratulate those who did that big measure because I am going to treat the Chairman of budget committee today if you permit me and, Mr. Speaker, I am going to treat you today.

I stand to support this motion, Mr. Speaker. This project is a white elephant project and like many pending projects, Mr. Speaker, I would like to have a history of what is happening in this county. Yes, Mr. Speaker---

Hon. Speaker: Maybe, before the history what did you say was in your left pocket?

Hon. Maitha: My left side pocket of my trouser, Mr. Speaker, is somehow loaded. Congratulations to the Clerk and the finance department because it has facilitated me to have a close talk with the Chairman budget after this.

Mr. Speaker, Sir, this project is a dead project and actually Mr. Speaker, on a very serious note, whoever went ahead and advertised that project is supposed to be surcharged, because an advert in a daily newspaper of that kind will cost Machakos county Government more than Ksh 100,000. That is wastage of taxpayers' money without consultations bearing in mind it was not budgeted for. So the whole process is nullity and in totality, it has flawed all the procedures and all the finance guiding principles of the finance act.

Mr. Speaker, today we are rushing to buy 2000 tanks yet we have not been able to supply the last lot which Honorable members have spoken about. A replica of what has happened in the Ministry of Health whereby, we rushed to make community hospitals yet we have existing dispensaries which are not serving the electorate. Where are we heading Mr. Speaker?

We have boreholes which we gave all the way back last year up to date. This is another financial year, those boreholes are still not available. Nothing happening. They are so urgent to an extent where even the electorates now are losing trust with us because we are promising them daily and here now again, we are saying now we want the messenger not the message.

It has well been said by Hon. Muthuka. We need to know where we can tap water and then storage will come afterwards. Today most of the machines for excavating dams, most of them are dead, they go they work 2-3 days. That is what we should be addressing today Mr. Speaker. And when you question, you are told it is missing a spare of Ksh. 3,000 to Ksh. 4,000. And here we are advertising a tender of more than Ksh. 10 million.

There must be a problem somewhere, and I wish to congratulate the Governor for what he has done today by sacking inefficient officials in the county Government of Machakos County. I wish to congratulate him more. He went last week to Matuu General Hospital and found a pathetic situation of that hospital. These are real situations, Mr. Speaker, and wish him to move to those areas where his officers have advised him to go and invest because it is not investment, its people who are taking advantage of the busy schedule of the Governor.

So what I am saying is this. Whoever even advised the Governor to go ahead and purchase these tanks should not be in office, Mr. Speaker. That is misleading the Governor. So what I am saying is we need to avoid as much as we can, as an assembly passing out and seeing issues being done for the sake of benefiting other people's projects.

Water is a major project in Machakos County, so those projects that we had earmarked for the last financial year, we need them to be finished first and then this house would have been brought a supplementary budget, to pass a supplementary budget for about Ksh 200 million to go and construct a reservoir at River Athi which is taking water to Mombasa.

The people of Yatta will get water or we would be having a supplementary budget to see how we can provide water to the people of Masinga which has gone to Kitui, Mr. Speaker. So we are saying, we should nullify this process and it should never even resurface in this assembly. Let us first finish those water tanks that we have not supplied and actually, Mr. Speaker, even the issue of roads. Today, we were given the second phase and third phase of roads.

Hon. Speaker: Conclude. That is another matter.

Hon. Maitha: So Mr. Speaker, what I want to say is, to conclude, let us avoid duplicating issues. Let us not go and invest in projects which are not going to us the feedback. Let us invest on what we know we have the funds first and what we know is going to serve people for longer periods. So I support this motion in totality and should even resurface in this house. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much.

Hon. (Ms.) Ndinda: Thank you Mr. Speaker. I stand in support of the motion which has been moved by our Honorable member and I would like to congratulate him because it was very timely and that is something we cannot allow to continue because this is a lot of money which is going haywire and yet we have not yet completed the first project of the Water tanks in the

schools. Secondly, in fact I was shocked to discover that some of the tanks are positioned in areas where there are no rivers.

Should we deal with the tanks or should we first look for the catchment areas? We should position the tanks and the reservoirs where we have Rivers so that we can tap the water then we transfer it to areas where there is no water. So to me I can say surely, the person who has done it has really messed up and we will not allow it as Honorable Members of Machakos County and we will not stand up and watch things go haywire.

So therefore, I 100 per cent support the suspension of the tender which has been issued and advertised in the papers. Secondly, we even want to know where they got the money to do the advertisement because that is wastage of resources. So I am not in support of this tendering and I support my Honorable member because of the way he has said that we should suspend it. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. I think the arguments have been put up exhaustively. Can we hear the mover of the motion unless somebody would want to add something?

Hon. Muinde: Thank you, Mr. Speaker. I am humbled by the support that I have received from this Hon. House. First I would want to say ‘Thank you’ to the budget committee because this is a matter that came to the committee and through the advice of the Clerk, it found its way to the plenary and the way members have unanimously supported this motion, without looking at the left and the right of the house, I am happy for such support.

Mr. Speaker, it is not that these hon. members do not want to support water programmes but we are saying the priorities here are upside down. We would need to have water for our people, it is common knowledge that problem number one in this County is water, problem number two is water and problem number three in this county is water. Any intervention that brings water to our people will definitely be supported but in this case, Mr. Speaker, the House is saying in the 2013/14 financial year, the government had a plan to supply all primary schools in the county with water. Mr. Speaker, you would be surprised to learn that the contractor who was given this job has already been paid in total yet almost every ward is missing some tanks, including my own ward, Mr. Speaker.

This is a scam to say the least. Mr. Speaker, when we talk about such a project, one, we did a budget in this House in the 2014/15 financial year. Before we could pass a budget here, Mr. Speaker, the committee on budget did public participation. Which corner of this county requested for water tanks to be placed at strategic areas without looking for the source of the water first?

Mr. Speaker one of the principles of financial management in the county level is that projects that need to be identified and funded through taxpayers’ money we must look at affordability, prioritization of the program and value for money. Mr. Speaker, 2000 tanks will

roughly translate to over Ksh. 200 million of taxpayers' money. We would be very much willing, I will be the first to support a motion, if first we have identified the sources of water, let us say like a borehole, it has been drilled, equipped then issues of reticulation that is distribution comes in the last phase after water sources have been identified.

Here we are starting by looking at the end, not the beginning. Issues of wrong priorities in the department of water are of grave concern. We have issues where water projects for certain wards have been hijacked and water given to other areas without following proper laws. Mr. Speaker, we cannot sit here as a house with an oversight authority and watch things as they go back. All members of this house, elected and nominated, have a duty to oversight the Executive.

By bringing this motion, it does not mean in any way that we are fighting the government of Dr. Alfred Mutua but we are exercising our mandate, the mandate to oversight the government and ensure the right projects are done in the right way so that we can give value for money and we can bring real development to our people.

I am happy I want to stand and state clearly that this motion has gotten the support, and with your directions, if you can direct the Committee on water to ensure that the letter that moves from this House to the relevant CEC member or the Committee on implementation so that this is really done. So that we don't come here and talk and talk and have our own decisions being pushed by the Executive. To say the least, this is a scam in the offing. We should not at any one time support a program that does not add value to the residents of Machakos, they are the tax payers but we would be willing to support things in the proper way.

So with those many remarks I say thank you and wish that this house directs immediate action regardless of any cost that may have been incurred and that this county government may incur in trying to suspend the program. I just remembered today in the morning, some engineers called me and they told me they have been sent to my ward to identify those strategic areas where the platforms are being constructed. It looks awkward as a representative of the people at ward level to have water tanks without the water and then plastic water tanks which are not also very durable.

Surely, it is a shame on all of us as members of this government. We do not need this and I also appeal that whoever went ahead and made his decision, matters of priority, matters of Budget are public matters. Who sat alone and decided that the people of Machakos need water tanks? The 800 plus tanks for the primary schools, not more than a quarter of them have been installed. Most of them are lying in the compounds of the schools, under the sun and I am sure within few years they will be broken. Mr. Speaker, we need to exercise prudence in the way we run this County and spend taxpayers' money.

Thank you Mr. Speaker and God bless all the members who have supported this motion and God bless Machakos County.

Hon. Speaker: Hon. Member, I thought the moment is concluded. The motion has basically been concluded. I will allow you after we put the question. That those in support of the

motion as presented and debated by Hon. Isaac Muinde, Chairman of Budget and appropriation Committee.

(Question put and agreed to)

Okay. Let me hear the point of information.

Hon. Maitha: I want to bring to the attention of the Chairman of the Budget committee said that the first phase of the water tank project has been paid fully. I want to put to his attention that I personally reside with the supplier of those water tanks. The company that supplied those water tanks is owed note less than Ksh. 20 million by Machakos and has not been paid. The contractor who was given that contract, I have spoken to him more than 10 times and he has always directed me to speak to the CEC member to pay him so that he can go and pay the company to continue supplying.

I have personally spoken to the CEC member himself and he has told me ‘Hon. Maitha there is no money to pay the suppliers.’ So I want to bring to his attention that no monies have been paid and if any, it is less than 10 per cent of that money. And that is the reason even right now. Even road projects are not going on because suppliers are worried that contractors start projects that they will not be paid. Thank you, Mr. Speaker.

Hon. Speaker: I am only allowing you to talk completely out of procedure but restrain yourselves. Let me hear Hon. Kathinzi and quickly, I have given you one minute.

Hon. Kathinzi: Thank you Mr. Speaker. I just wanted to clarify to you that *Mheshimiwa* Maitha has just read my mind and as I had already planned to buy *Mheshimiwa* a cup of coffee, now I will buy ‘*nyam chom*’ as he buys a drink. Because he has read my mind, so therefore, I just wanted to clarify that that is a big question if the Chairman of Budget can testify to this Assembly that the contractor has been paid totally.

He chairs the Committee of Budget allocation. I think there is a big worry about what is happening in Machakos County government. We need a written statement to clarify a detailed report how this money has been paid. Because I cannot sit in this Assembly while 29 tanks have never been supplied in Kivaa Ward primary schools and the Chair budget can testify that the contractor has already been paid and those tanks have not been supplied.

Hon. Kitheka: Thank you, Mr. Speaker. Mine is just to urge this House to put an ultimatum to the department of water to deliver the tanks within the schools that were not given the tanks within two weeks. The financial year is gone and we know that and we know the money was budgeted for and there is no reason why the schools not having the tanks.

Now because the year is over and the tanks have been bought, we want them in the schools and as a House, we give them as an ultimatum of two weeks. Then if they fail, we will meet with the CEC member on the corridors of power. Thank you.

Hon. Speaker: Hon. Kitheka, make that an agenda. Come up with an appropriate motion. We are a House of procedure and we cannot issue ultimatums just like that. The motion having succeeded, I further direct that the Committee on Environment, Lands, Energy and Natural Resources takes up the agenda and files a report for debate.

I am advised since issues of finances have been raised, then a joint Committee together with the Committee of Budget and appropriation. And that a report is filed for debate so that we can issue appropriate directions in case wrongs have been done. Thank you very much. How long can we have that report?

Hon. Muinde: Mr. Speaker, while I applaud the decision to have the Committee of Budget and the Committee of Land and Environment sit and file a report, I want to make a request since two weeks ago, since this tender was advertised, members of public are now buying the tenders. We also have a duty to protect members of public because they will be losing their money. Mr. Speaker, I wish there will be communication even before that joint Committee can come up with a report.

A direction made by this House enforcing the suspension before the final report is tabled in this house, so that forthwith this tender is suspended, members of public are protected and as I make that plea to have that direction even by the house, I also want to say that Hon. Maitha seems to have more information about the first tender and the monies owed but since I do not work with the Executive, I wish the Committee, while presenting its report to this House, because I am sure they will summon the CEC members and have them interrogated they can also give the status of the first tender in terms of payment so that the exact position can be established without making generalities in this House.

We need to have the exact answers especially where accusations and counter accusations could arise. Because it will be wrong for us to say that this amount of money is owed or has been paid but members of the cabinet must be put to account to show how much they have paid for such projects or what is owing. Thank you.

Hon. Speaker: Thank you. Finally, Hon. Kathinzi.

Hon. Kathinzi: Mr. Speaker, I would like to ask this House whether it is in order for the Chairman of Budget committee to give half-baked information to hon. members and the Speaker himself. So I request that he withdraws that statement he had stated that the contractor had been fully been paid. Unless he withdraws that statement, I shall stand firm to correct that position.

We need a written statement from you because you stand here to speak for the Chairman and the Finance department.

Hon. Speaker: Can we hear the Chairman of Budget committee. I thought the he had said that the supplies had been paid in full.

Hon. Muinde: Mr. Speaker, when we asked the CEC member for Finance, she said contractors had been pain. We cannot, unless we are given written statements direct from the CEC member, stand with finality. But Mr. Speaker, let us not divert the attention and begin to fight ourselves. We know the tender was given out a year ago, so money must have been following the execution of the tender, and whether money has been paid or not at one point, money will be paid if not already paid.

So our concern is the execution of the program and the amount attached to the program. Diverting from the main cause and now begin to attack the messenger will be now derailing but since you have directed the joint Committees bring a report to this house, for sure it means that, that report must be comprehensive and it is in such Committee level that we will be able to do enough research and attach all evidence because at this level, it was motion but a report must be well researched. Thank you.

Hon. Speaker: Thank you, Hon. Members. The resolution of the House is that the motion succeeds and indeed the motion succeeded. This resolution is equal to that of a High court order and I will expect the Clerk to draw the motion and serve the Executive for immediate obedience. Therefore, the direction stands that the motion succeeds and the joint Committees join hands, bring a report, invite members who have evidence like Hon. Dominic Maitha in that Committee then file a report that will be deliberated and recommendations will be done for appropriate actions.

ADJOURNMENT

Hon. Speaker: Thank you very much, in the absence of any further adjourns until tomorrow afternoon. Thank you.

The House rose at 3.40 p.m.