

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Tuesday, 10th February, 2015**

The House met at 2.40 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****COMMUNICATION FROM THE CHAIR****OPENING OF THIRD SESSION**

Hon. Speaker: Good afternoon Hon Members. Once again, good afternoon. Welcome to today's session of the year 2015. As you may be aware, today we are supposed to have the ceremonial opening where we would be expecting the address by the Governor but he has sent apologies. He is not available and adequate communication will be sent when he will eventually come and guide us in his address. As the House Business Committee met in the week, today's event will be perhaps to warm up, sit in the refurbished premises that we now have and perhaps hear the communication from the chair that will outline our endeavor and agenda for the term as we await the Governor. Allow me then to go through the communication and I read.

Good afternoon Hon. Members. It gives me pleasure to welcome you all to the third session of the first County Assembly of Machakos. It has been a long recess for all of us and I believe that as we undertake our mandate this session, we will do so with renewed vigor. The Governor will not be opening the session as is customary. He is currently engaged outside the country but as soon as he jets back, he will come and make his speech for the session.

Hon. Members, Article 1(1) (2) and (3) of the Constitution of Kenya stipulates that all sovereign power belongs to the people of Kenya and shall only be exercised either directly or through their democratically elected representatives. We are the ones who are assembled here today. This provision reflects the division of roles in our governance structures and gives us the constitutional obligation to fairly represent our people.

Moreover, Hon Members, Article 185 states that the legislative authority of a county is vested in, and exercised by its county assembly, which may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of powers of the county government under the Fourth Schedule of the Constitution.

Section 3 goes on to elucidate the role of the County Assembly thus: “A county assembly, while respecting the principle of separation of powers, may exercise oversight over the county executive committee and any other county executive organs.”

Hon. Members, our Assembly must play its rightful role in the implementation of the Constitution of Kenya, 2010. Our Standing Orders support the Constitution in outlining the roles, functions and powers of the legislature in terms of the legislative process, oversight of the Government and representation of the people. The County Assembly is therefore, under special focus as it discharges its functions and I have no doubt that we will rise to the challenge.

Performance of the Assembly in the Last Session

Achievements

CRA Ceiling standoff

Hon Members, as you may all be aware, County Assemblies have since the beginning of the current financial year, been engaged in a tussle with the Commission on Revenue Allocation over the recurrent expenditure ceilings that were proposed by the commission. As a result of the standoff, many assemblies were thrown to a financial quagmire, to the extent of causing pecuniary embarrassment to both the Members and staff of the assemblies. As a matter of fact, the County Assemblies have been in court over the same issue. The County Assembly of Machakos separately held a discussion with the commission and I am pleased to inform you that the discussion was favourable and the standoff has since been sorted.

Biometric System

As part of our major accomplishments, we succeeded in installing the biometric attendance registration system which has been in use in registering Members via thumbprint whenever they attend plenary sittings. The system, although not fully operational at the moment, has various modules which will be beneficial to the Members of the County Assembly. It will:

- Reduce the time taken to register attendance
- Reduce the time needed to calculate and process members’ allowances
- Enhance security and eliminate mistakes in calculating members’ allowances and benefits
- Notify members of meeting agendas through channels such as messaging, and emails hence preparing them for such meetings psychologically

Starting this session, the system will be used both by committees and during plenary, including when holding meetings outside the precincts of assembly. This will help instill discipline in

attendance of meetings and will assist in management of members' allowances as well as notifying members of upcoming meetings. I note that in the last session, some dishonest members were registering attendance even after the plenary session was over. As a measure to enhance discipline in attendance of committees and plenary, those who register after the sittings will not receive their allowances and I will ensure that this is followed to the letter.

Chamber

As you can all see, we have a newly renovated chamber with more personalized and comfortable seats, a more secure Hansard unit with enhanced equipment and an improved public gallery. The improvements made will enhance overall efficiency in the chamber business. Very soon, the chamber will be fitted with additional conferencing system including gooseneck microphones for every Member, like is the case in the National Assembly, to enable members to make their contribution from where they sit in the Chamber. New communications equipment and cameras will also be added as we make plans to stream the proceedings of the Assembly to a wider audience, both within the precincts of the Assembly and beyond.

Bills

I can't forget to commend you for passing a record 14 Bills in the last session and for meeting constitutional deadlines, especially in the budget-making process. As we begin this session Hon. Members, I wish to provide guidance on the matter of processing of Bills. In our fledgling practice, the relevant Committee may make any recommendations or comments on a draft Bill brought before the House. Based on those recommendations, I may render either that the draft Bill be not proceeded with or that it be accepted. If I certify that the proposal be accepted, the proposal is then published as a Bill.

Hon. Members, after the First Reading of a Bill, the same is referred to the relevant Committee after First Reading. I know that you are all conversant with Standing Order No. 120 (4), which requires a Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its Report to the House. The Committee or a Member designated by the Committee for that purpose shall be expected to present the Committee's Report to the House within 20 calendar days of such committal.

Upon such presentation, or if the Committee's Report is not presented when it becomes due, the Bill may then be ordered to be read a Second Time. If for any reason, at the commencement of the Second Reading the Report of the Committee will not have been presented, the Committee concerned will be expected to report progress to the House and failure to present the Report shall be noted by the Liaison Committee for necessary action.

The Office of the Clerk has recently introduced a Bill tracking system to deal with the speed at which the proposals are passing through pre-publication and Committee stages on committal after First Reading. I invite hon. Members to pay attention to the trackers, which are available in the Clerk office and on the Assembly Website.

I encourage Committees to form sub-committees whenever appropriate to ease the processing of Bills and other reports. To this end, save for matters in respect of which a deadline is set by the Constitution, statutes, the Standing Orders, or a resolution of this House, all Committees are advised to prioritise consideration of Bills before considering any other business.

In addition, should a Committee exceed the period for scrutiny of Bills referred to them after First Reading, the House Business Committee will invoke the provisions of Standing Order 120 without exception – that is to order that the Bill be tabled for Second Reading at the expiry of the 20-day period, irrespective of the reports of the relevant Committees. Apart from the routine Bills, about 10 other bills and five regulations are expected to be tabled this session.

Hon Members, I reiterate that Members should bring business to the House and the committees must ensure that they undertake their duties, as laid down in the Standing Orders. They must also liaise more with the Executive to ensure that county policies are brought to the Assembly for approval and that the Executive is more involved in the legislative process to ensure better implementation of policies.

Library

Hon Members, the Library is currently operational and resource materials are available to both the Members and staff of the Assembly. Additional resources have been requisitioned and will be made available to Members as soon as they are brought. In addition, Hon. Members, an Assembly Journals database with comprehensive network access storage mechanism, together with a library management system will soon be in place.

MCA's lounge and Office block

The Members' lounge is now available for members and is currently being equipped with seats for Members' relaxation. The tendering process for the planned construction of the office block is currently at an advanced stage.

Challenges

However, Hon. Members, the Assembly was not without challenges in the last session:-

Indiscipline

The main challenge that we faced was a lack of discipline among the Members of the Assembly. You are all aware that debate in this House in the last session was not as decorous as

we all would have desired. Our rules of debate were largely breached. We witnessed some Members creating disorder, using violence against colleagues and abusing their privileges. We saw behaviour that bordered on disrespect for the presiding officers during proceedings in the Committee of the whole House and in the plenary. Some Members exchanged insults in the most despicable of ways and even attempted to rough up their colleagues. Other Members even threatened to take away the Mace at some point. This state of affairs, which is unacceptable, will erode public confidence and bring the institution of the County Assembly into disrepute.

I wish to appeal to you to familiarize yourselves with the provisions of the Standing Orders regarding rules of debate and order in the House, Committee of the whole House and, particularly, Standing Orders No. 103, 104, 105, 106, 107 and 108 which should provide you with the requisite guidance on the breaches and sanctions that follow disorderly conduct in the House. These Standing Orders are designed to ensure that you exercise your privilege of free speech with good sense and taste, maintaining courtesy of language towards other Members in debate. Personal references, unbecoming language and insults during debate do not, therefore, augur well for the House.

Hon. Members, Standing Order No. 103 defines “grossly disorderly conduct” as:-

“(1) Conduct is grossly disorderly if the Member concerned –

- (a) Creates actual disorder;
- (b) Knowingly raises a false point of order;
- (c) Uses or threatens violence against a Member or other person;
- (d) Persists in making serious allegations without, in the Speaker’s opinion, adequate substantiation;
- (e) Otherwise abuses his or her privileges;
- (f) Deliberately gives false information to the House;
- (g) Votes more than once in breach of these Standing Orders;
- (h) Commits any serious breach of these Standing Orders; or
- (i) Acts in any other way to the serious detriment of the dignity or orderly procedure of the House.”

Hon. Members, for the avoidance of doubt, I would want to encourage you to carefully study Standing Order No. 107 because if you are ordered by whoever is presiding to leave the Chamber and you resist, the consequences are that you may be suspended for periods in excess of not just eight Sittings, but 28 days and we intend to enforce these rules to the letter.

Way Forward

Hon Members, it is my hope that as we undertake our mandate, we shall all work together with mutual respect and co-operation amongst ourselves, with the Executive arm of the County government and with all the other oversight institutions established by the Constitution.

Speaker's Rules

I wish to inform you that the Speaker's Rules are now in place and all Members of the County Assembly, staff and visitors must adhere to them. Pursuant to Article 196 (3) of the Constitution of Kenya, Parliament shall enact legislation providing for the powers, privileges and immunities of county assemblies, their committees and members. Furthermore, Section 17 of the County Governments Act states that the national law regulating the powers and privileges of Parliament shall, with the necessary modifications, apply to a county assembly.

The Speaker's Rules, which derive their authority from the National Assembly Powers and Privileges Act in the absence of a substantive Machakos County Assembly Powers & Privileges Act, will be enforced to the letter and all the Members and staff and of the County Assembly are expected to acquaint themselves with the rules. I further urge the party leaders to ensure their members adhere to the rules, and all other House rules including the Standing Orders and all other relevant laws. Copies of the Speaker's Rules will be circulated to all members immediately after this.

Prudent Management of Resources

Hon Members, as I have earlier stated, assemblies have in the recent past suffered fiscal strains partly due to poor management of funds by the County Government. We should ensure that we take the mandate of over sighting seriously by leading by example. As such, we are expected to adhere to the principles of fiscal responsibility. The County Assembly must practice smart spending, ensure that we cut costs as much as possible.

As you are all aware, a county assembly bus, primarily meant for committee operations, was bought last year. It is expected that whenever a committee is working towards a common goal, it must use the bus. The Clerk is under instructions to ensure compliance.

Mortgages

Hon. Members, strategies to assist in executing the mortgage scheme for Members of the County Assembly are now in place and you are advised to liaise with the Fund Manager appointed by the office of the Clerk to ensure that you have the relevant documentation needed for you to access the mortgage facility.

Conclusion

Hon. Members, I am conscious that the citizenry expects to see balanced, informed and robust debating chambers in both the plenary and the committee stages. I wish to reiterate that as representatives of the people of Machakos County, Article 1 of the Constitution gives the basis upon which the representational aspect of the county assembly is anchored and should serve as a reminder to each of us that we are representatives of so many other people and should therefore ensure that the laws we make reflect the needs of our people.

We have to collaborate and work together, even with our other stakeholders. The theory of government in our case has put us together to complement each other, accomplish the development tasks that we have given ourselves as a county and provide quality and reliable services to our people.

Indeed, we do not have to look very far. The third stanza of our National Anthem states:-
“Let all with one accord, in common bond united, build this our nation together; and the glory of Kenya, the fruit of our labour fill every heart with thanksgiving.”

On our part, we must play an integral role in safeguarding the devolution architecture, pursuant to our full mandate as set out in Sections 7 and 8 of the County Governments Act. Therefore, there is a lot of work ahead of us. Machakos residents need equitable development and quality services like yesterday, and not tomorrow. We all need to play, and indeed must play, our respective roles in the fulfillment of those aspirations.

Today, we come together with a single purpose; that of promoting the welfare of our people, protecting their rights and giving voice to the many and varied interests of our people. We are here, not for ourselves, but as representatives of the people.

We, today recognize that we sit under the banner of a new Constitution. As law-makers, our first duty is to be law-keepers subject to the Constitution. I urge all of you to remember that each of us is obliged by virtue of citizenship and the trust placed on us by the people to respect, uphold and defend our Constitution; each of us is bound by a solemn oath, to bear true faith and allegiance to the people who appointed us into office and to faithfully and diligently discharge our duties. These duties are conferred upon us by our Constitution. This is the oath of office we took before God and our people. Although you may not agree from time to time, this should be in an atmosphere of mutual respect and consideration. We should be able to hold different viewpoints without being enemies.

Hon. Members, the role of a vibrant opposition is vital to the effective functioning of our Government. Just like in any other House, this Assembly is comprised of political parties, which represent divergent party views and positions on variety of matters. Once in a while, these issues are likely to be emotive during debate on the Floor of the House. My duty, as the Speaker, is to facilitate this debate while acknowledging the dictum that: “The Minority will have its say, but the Majority will have its way.” With this in mind, let us debate with sobriety and order knowing that the people of Machakos are looking up to us for direction. However, you must all stay within the rules of relevance and decorum.

In closing, I wish to remind us that reference to ourselves as “Honourable Members” is not a title conferred on us by ourselves, but by others. It should, therefore, be a title that is

continually earned and revered by those of us who, as we say in our Assembly Prayer: “Have been called to the performance of important trusts in this Republic”. Whatever issues Members may want to raise in the House, now and in the future, should be done with decorum, civility and in keeping with the stature of Honourable Members. I urge you to work harmoniously for the betterment of our institution and the whole Machakos County and I welcome you anytime to my office in case you need to consult. Enjoy the rest of your day. Thank you very much.

Applause

Hon. Speaker: Hon Members, the business of the day was only designated for that welcome speech and I’ll urge you to enjoy a wonderful afternoon. I will request the two whips to come to my office after this then members we’ll communicate any other matter through the office of the Clerk. Thank you and have a good afternoon and the session adjourns.

The House rose at 3:06 p.m.