

MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 2nd December, 2015**

The House met at 10.22 a.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good morning Hon. Members. Let us proceed, clerk.**PAPER LAID****WARD DEVELOPMENT AND STAFF CAR LOAN REGULATIONS****Hon. Speaker:** Hon. Peter Nzioki**Hon. Nzioki:** Thank you Mr. Speaker. I beg to lay the following paper on the floor of the House today the 2nd December, 2015, the report of Delegated County Legislation committee on Ward Development Fund Regulations, Ward Office Regulations, Staff Car Loans and Housing Scheme Regulations. Thank you, Mr. Speaker.*(Hon. Nzioki laid the Papers on the Table)***Hon. Speaker:** Thank you, paper is laid. Proceed.**NOTICE OF MOTION****WARD DEVELOPMENT AND STAFF CAR LOAN REGULATIONS****Hon. Nzioki:** Thank you Mr. Speaker, Sir. Mr. Speaker, Sir, pursuant to Standing Order Number 44(1), I wish to give notice of the following motion, that this House discusses and approves the report of Delegated County Legislation committee on Ward Development Fund Regulations, Ward office regulations and staff car loan and housing scheme regulations. Thank you, Mr. Speaker.**Hon. Speaker:** Thank you, notice is issued. Proceed**MOTION****WARD DEVELOPMENT AND STAFF CAR LOAN REGULATIONS**

Hon. Nzioki: Mr. Speaker, Sir, aware that the committee on Delegated County Legislation is mandated to consider any statutory instrument made in the Assembly; aware that the Assembly has received three regulations on Ward Development Fund, Ward Offices and staff car loans and housing scheme; aware that these regulations were considered by the committee and also Members of the Ward Development Fund committee and several other invited Members gave there inputs to the regulations in Mombasa; aware that the regulations will operationalize the Ward fund, Ward office and staff car loan and housing scheme, I wish to move the motion that this Hon. House considers and approves the Machakos Ward Development Fund Regulations 2015, Machakos County Ward Office Regulations and Machakos County Assembly Staff Car Loan and Housing Scheme Regulations. Thank you Mr. Speaker, Sir. I wish to call Amina Mutio to second this motion. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Chairperson, properly address your seconder.

Hon. Nzioki: I wish to call Hon. Amina Mutio to second my motion. Thank you, Mr. Speaker for the correction.

Hon. (Ms.) Amina: Thank you, Mr. Speaker, Sir. I stand to support the said motion. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. The motion is properly laid. Proceed and address us on the report.

Hon. Nzioki: Thank you Mr. Speaker. I wish to lay the report of Delegated County Legislation committee on:

1. Machakos County Ward Development Fund Regulations, 2015.
2. Machakos County Assembly Car Loan Scheme and Housing Scheme Fund (Amendment) Regulations, 2015.
3. Machakos County Assembly Service Ward Offices Regulation, 2015.

Introduction

Preface

Mr. Speaker, the above regulations were presented to the Assembly and upon receipt, they were committed to the committee on Delegated County Legislation pursuant to Standing Order 189 (2) which states that *“whenever a statutory instrument is submitted to the Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the legislation, be laid before the Assembly by the Chair*

of the relevant Sectoral committee or any other member and shall thereafter stand referred to the Committee on Delegated Legislation.”

Mandate of the Committee

Mr. Speaker, Sir, this committee enjoys a wide range of mandates as far as matters of statutory instruments are concerned, some of which include: -

- Considering if the statutory instrument is in accord with the provisions of the constitution, the Act to which it is made or other relevant law. (Standing Order 189 (3)(a))
- Considering if the statutory instrument involves expenditure from the County Revenue Fund or other public revenues. (Standing Order 189 (3)(g))
- Determining if it is defective in its drafting or for any reasons the form or purport of the statutory instrument calls for any elucidation. (Standing Order 189 (3)(h))
- If it inadequately subjects the exercise of legislative power to Assembly scrutiny. (Standing Order 189 (3)(p))
- If it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made. (Standing Order 189 (3)(i))

Committee Composition

Mr. Speaker, Sir, the committee has thirteen (13) members as follows:-

- | | |
|-------------------------------|--------------------|
| 1. Hon. Peter Nzioki | - Chairman |
| 2. Hon. Cornelius Kitheka | - Vice Chairperson |
| 3. Hon. (Ms.) Bibiana Nduku | - Member |
| 4. Hon. David Manyolo | ” |
| 5. Hon. (Ms.) Amina Mutio | ” |
| 6. Hon. Joseph Kalunde | ” |
| 7. Hon. Justus Kimata | ” |
| 8. Hon. (Ms.) Benedette Mueni | ” |
| 9. Hon. Benson Kasyoka | ” |
| 10. Hon. (MS.) Alice Nzioka | ” |
| 11. Hon. Geoffrey Munyao | ” |
| 12. Hon. (Ms.) Jacinta Luka | ” |
| 13. Hon. Festus Ndeto | ” |

Consideration of the Machakos County (Ward Development Fund) Regulations, 2015

Mr. Speaker, Sir, the Machakos County Ward Development Fund Regulations are established pursuant to section 45 (1) of the Machakos County Ward Development Fund Act, 2014 (Section 4 (1)) which requires the County Executive Committee Member to make regulations for the smooth running of the fund and forward them to the County Assembly for approval before implementation.

Mr. Speaker, Sir, Machakos County Ward Development Fund Regulations are very dear to all the Honorable Members of the Assembly and just as the Act itself, the committee felt it wise to involve the County Assembly Ward Development Fund committee in the discussions of the regulations so that consensus could be built early.

Mr. Speaker, Sir, first and foremost these regulations will operationalize the Machakos County Ward Development Fund Act, 2014. Further, through the regulations, job vacancies will be created especially in the County Management committee and the Ward Development Fund committee. The regulations clearly set the process of nominating members to these positions to be open, fair and competitive.

Mr. Speaker, Sir, under regulation number 4, members of the public will be involved in the project identification process pursuant to Article 10 of the Constitution of Kenya. The transition process from one Ward Development Fund committee to the next is plainly stipulated and will ensure smooth handing over and accountability between the two Committees.

Moreover, this piece of legislation provides for the Ward Development Fund committee to form such Committees such as: Ward development Fund Tender Sub-Committee pursuant to the public procurement and disposal laws, Ward Development Fund Tender Processing Committee as required by the public procurement and Disposal Regulations, 2010, the Monitoring and Evaluation Sub-Committee and the Ward Development Fund Bursary Sub-Committee.

Mr. Speaker, sir, regulation number 16, gives the Ward Development Fund Committee the criteria for administering the bursary funds. Further, in regulation number 19 the Ward Development committee has been tasked with ensuring sustainability of the projects funded under the Act.

Mr. Speaker, Sir, Hon. Members went through the Machakos County Ward Development Fund Regulations and were happy that they were going to help in the operationalization of the Machakos County Ward Development Fund Act. Members were concerned on the projects which were to be undertaken using the fund and they agreed to define project under interpretations to mean project done under the Ward Fund. This eliminated the danger of the funds being diverted to complete other stalled projects that were being done by the County Government.

Mr. Speaker, Sir, members proposed that the regulations be very clear on the accounting records by requiring the County Ward Officer who was the Secretary to keep them and avail them to the Ward committee for scrutiny regularly. Hon. Members further proposed that 5 per cent of the fund be used for bursaries and agreed to amend the Act.

Mr. Speaker, Sir, members sought to know why clause 12 and 23 (3) talked of the CEC making guidelines and on further interrogation, it was realized that it was ideal to leave a window for guidelines to avoid deadlocks where the legislation did not expressly state what was to be done. Members further questioned the amount to be set aside for operational expenses at the ward level and were informed that it was 5 per cent of the amount received by the ward as per section 11(6) of the Act.

Mr. Speaker, Sir, members proposed for amendment of section 21(3)(b) of the regulations to state that bank signatories to be the Chairperson and the Treasurer of the Ward committee. These two were to join the Officer of the Fund named in section 21 (3)(a).

The Committees in close consultation with the CEC Member for Finance and Revenue Management agreed on the amendments.

Considerations of the Machakos County Assembly (Car Loan Scheme and Housing Scheme Fund) Amendment Regulations, 2015

Mr. Speaker, Sir, members of the committee considered the regulations alongside a circular from the Salaries and Remuneration Commission (Ref. No. SRC/ADM/CIR/1/13 Vol.111 (128) for car loan and mortgage scheme for state officers and other public officers and found out that:-

- The document is good for implementation and that it will motivate the public officers and immensely contribute towards attraction and retention of requisite skills in the public service in line with the constitutional principles under Article 230 (5b) of the Constitution.
- All state and public officers who are currently not enjoying these benefits and who are employed on permanent and pensionable basis and for state officers who are either on full time or part time basis are eligible for this benefit.
- Questions of repayment of the loan in the case of officers on contract has been addressed clearly by the SRC Circular whereby it is provided that the duration of the scheme shall be a maximum of twenty (20) years for mortgage scheme and five (5) years for car loan.
- The terms of the scheme will favour officers concerned and therefore lead to their individual development.

Mr. Speaker, Sir, it is out of the above listed grounds that the members of the Delegated Legislation committee unanimously approve the aforementioned regulations and recommended them for adoption by this Hon. House

Considerations of the Machakos County Assembly Service Ward Office Regulations, 2015

Mr. Speaker, Sir, Machakos County Assembly Service (Ward Office) Regulations are very dear to all the Hon. Members of the Assembly. The Regulations have the object of streamlining the operations of the Ward offices as per the new guidelines issued by the National Government on E-Procurement and Remuneration of Ward officers.

Mr. Speaker, Sir, the Committee retreated to Sai Rock Beach Hotel in Mombasa to discuss the regulations between 12th to 15th November, 2015. Members were taken through the regulations and made a number of recommendations. On Clause (3)(a) members recommended that the clause should allow room for the member of the County Assembly to identify a suitable office which the Chief Officer responsible for Public Works shall inspect and if satisfied, certify the office to be used by the Member of the County Assembly. On clause 5, the committee agreed

that the offices should be clearly branded and the signage should start with the name of the Ward followed by the name of the Member of the County Assembly. In addition, members agreed that lease agreements in clause 7 should be signed by the Clerk who was the accounting officer of the Assembly.

Mr. Speaker, Sir, on part IV of the regulations, the committee deliberated on the manner in which the ward staff would be recruited and dismissed and it was agreed that the Member of the County Assembly shall initiate both processes through recommendations on behalf of the Board. In addition, the committee deliberated on the benefits of the Ward staff and agreed that there was need to provide insurance cover, gratuity and leave entitlement to the officers. Further, the Clerk to the County Assembly may enroll the officers to a pension scheme in compliance with statutory requirements.

Mr. Speaker, Sir, on Clause 25, the committee discussed the qualifications of the Ward Officers and agreed that the Secretary should possess a minimum of secondary education certificate while the Ward office assistant should have at least primary level certificate and should be fluent in English, Kiswahili and local vernacular language. The committee agreed that clause 33 (2) should be deleted and that there should be smooth transition from one Member of the County Assembly to another. The Clerk to the County Assembly shall ensure the handing over procedure is fully complied with to ensure there is no loss of the Assembly property.

Recommendations /Conclusion

Mr. Speaker, Sir, the committee recommends that the Hon. House discusses and approves the aforementioned regulations. Mr. Speaker, sir, the Delegated County Legislation committee is grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the discussions of the regulations. I wish to express my appreciation to the Hon. Members of the committee who sacrificed their time to participate in the meetings and in preparation of the report.

Mr. Speaker, Sir, it is therefore my privilege, on behalf of the Delegated County Legislation committee, to table the report on the aforementioned regulations in this Hon. House for deliberation and approval. Thank You Mr. Speaker, Sir.

Hon. Speaker: Thank you Chairman. The report is delivered and I open debate. Debate on the report has been opened. Members, these are regulations that I think all Members had a hint on and I'm sure the House in conversant with.

In the absence of any word from Hon. Members, then I propose to put the question. Yes, Hon. Kyalo Kyuli.

Hon. Kyuli: Thank you Mr. Speaker for this opportunity. I just wanted Mr. Speaker, while making my observations to say that the mandate of the committee from the Standing Orders is that when instruments like these are brought before them, the Standing Orders say they can only accept as it is or reject in totality. That is the Standing Order that informs the Committee. I have seen that on consideration of Machakos County Assembly Service Ward

Office Regulations, they have made some changes therein. Therefore Mr. Speaker, I wanted to draw your attention to the Standing Order that forms the committee and advise us accordingly. Thank you, Mr. Speaker.

Hon. Speaker: Let me hear you again Hon. Kyalo Kyuli. Just make your point clear.

Hon. Kyuli: Yes Mr. Speaker. I am not holding the Standing Orders but because I was a Member of the Committee, while being inducted we were---

Hon. Speaker: Hon. Kyalo Kyuli, I would be glad if you can cite the Standing Order.

Hon. Kyuli: Come again, Mr. Speaker.

Hon. Speaker: I would be glad if you can guide the House with the Standing Order that you are quoting and take us to the relevant law.

Hon. Kyuli: Yes Mr. Speaker. The Standing Order that forms the committee Mr. Speaker---

Hon. Speaker: Which Standing Order is this? 189?

Hon. Kyuli: I so believe, Mr. Speaker.

Hon. Speaker: Ok. Proceed.

Hon. Kyuli: While we were on induction, and according to the Standing Order, were told that the committee once they receive any instruments, they can only discuss and accept as they are or reject as they are, Mr. Speaker. Therefore I wanted to ask that Mr. Speaker you guide us on that.

Hon. Speaker: Yes.

POINT OF INFORMATION

Hon. Ndeto: Thank you, Mr. Speaker for that time you have given. I think by then I was also a member of that committee. I can see you are looking for the current Standing Order but by then we were using the interim Standing Orders. Probably it may have changed because we adopted our own Standing Orders.

Hon. Speaker: Maybe Hon. Kyalo Kyuli, I think the proper course to take will be, you now begin and deliver that argument.

Hon. Kyuli: Come again?

Hon. Speaker: Go and debate and deliver that argument to be recorded.

Hon. Kyuli: Therefore if you allow...allow me please Mr. Speaker---

Hon. Speaker: Proceed.

Hon. Kyuli: I check on the Standing Order a minute then if possible I will come back Mr. Speaker; if you so allow.

Hon. Speaker: Alright, we will allow you to come back. Let us hear Hon. Mueni.

Hon. (Ms.) Mueni: Thank you Mr. Speaker, Sir. I stand to support the report. I am also a Member of this committee and I think it is only that the Members are not in the mood. We did all this work in Mombasa, so they have to adopt the report. I don't think we have anything to continue thinking about. It is only that their heads are not here; there is what they are thinking about. Thank you, Mr. Speaker, Sir.

Hon. Speaker: We all agree with Hon. Mueni and I proceed to put the question?

Hon. Members: Yes.

Hon. Speaker: Then as many as are in support of the report as presented today and discussed by Hon. Mueni and Hon. Kyalo Kyuli.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Thank you. That marks the end of the morning business; we meet later in the afternoon.

The House rose at 11.10 a.m.