
MACHAKOS COUNTY ASSEMBLY**OFFICIAL REPORT****Wednesday, 22nd June, 2016**

The House met at 10.04 a.m.

*[The Speaker (Hon. Bernard Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good morning, Hon. Members. Let us proceed.**PAPER LAID****AMENDMENT OF LEADERSHIP AND INTEGRITY CODE**

Hon. Katumo: Mr. Speaker, Sir, I beg to lay the following paper on the floor of the House today, 22nd June 2016 the report on amendment of the leadership and integrity code. Thank you Mr. Speaker, Sir.

*(Hon. Katumo laid the paper on the Table)***Hon. Speaker:** Paper is laid. Proceed.**NOTICE OF MOTION****AMENDMENT OF LEADERSHIP AND INTEGRITY CODE****Hon. Speaker:** Again, Hon. Katumo.

Hon. Katumo: Mr. Speaker, Sir, pursuant to Standing Order 44(1) I wish to give notice of the following motion: that this Hon. House discusses and approves the report on amendment of the leadership and integrity code as presented by the committee on Powers and Privileges. Thank you Mr. Speaker, Sir.

Hon. Speaker: Proceed.**MOTION****AMENDMENT OF LEADERSHIP AND INTEGRITY CODE****Hon. Speaker:** Hon. Justus Katumo.

Hon. Katumo: Mr. Speaker, Sir, aware THAT all state officers have a constitutional obligation to adhere to section 37 of the constitution; further aware THAT the leadership and integrity code has set standards for ensuring that state officers respect the values, principles, and provisions of the Constitution; Mr. Speaker, Sir, remembering that in November, 2015 the Assembly received the leadership and integrity code from the Ethics and Anti-Corruption Commission that required all the County Assemblies to read and make amendments that best suit their operation and then forward the amendments back to the commission for approval; aware THAT on 7th December, 2015, the amendments were forwarded to the commission and approved on 5th January, 2016; Mr. Speaker, Sir, considering that the County Assembly is required to publish the amended code in the Kenya Gazette within 90 days; noting that it is mandatory for all serving state officers in the county assemblies to sign and commit to the code in the First Schedule in duplicate within 14 days of publication; cognizant that the deadline for this exercise is 30th June, 2016, I wish to move the motion that this Hon. House discusses and approves the report on amendment of the leadership and integrity code. Thank you Mr. Speaker, Sir. I call upon Hon. Alice Nzioka to second this motion.

Hon. Nzioka: Bw. Spika, nimesimama kuunga mkono hiyo ripoti ambayo imweletwa juu ya mwongozo, uwajibikaji na tabia za viongozi wa kisiasa. Bw. Spika kama unavyojua, kutoka kwa bodi ya ufidiaji tulipata hiyo ripoti ama huo mwongozo mwaka uliopita, tukaja sisi kama kamati tukaongea, tukaangalia, tukaona mwongozo ambao tumepatiwa kama viongozi. Bw. Spika, katika siasa za nchi ya Kenya, wale viongozi ambao wamekuwa wakienda nje ya uongozi kuongea mambo ambayo hayana dhibitisho, tabia ambazo hazieleweki sisi kama viongozi, ndio maana tukaandikiwa mwongozo ambao utatuongoza katika uongozi wanchi ya Kenya.

Bw. Spika sisi kama bunge, hatuna budi ni lazima kupitisha huu mwongozo sababu mwongozo mwenyewe ukisoma unakuta ni lazima tuipitisha na sio sisi kauli ya Machakos; ni kaunti 47 za nchi ya Kenya na kama tulivyoangalia huo mwongozo, umeonyesha tumeelekezwa vizuri vile ambavyo sisi kama viongozi tunalazimika kukaa, tunalazimika kuongoza.

Bw. Spika viongozi tumeongoza na uwajibikaji tumekosa. Katika huu mwongozo tumeelekezwa vizuri sana na nafikiri kila mmoja mshimiwa ambaye ako kwenye hili bunge amepata mwongozo anao mkononi asome, aone mwongozo ambao tumeelekezwa. Bw. Spika tulielezwa natumesoma; kukataa kuipitisha katika muda ambao tumepewa, Bw. Spika wa kaunti ya Machakos atawajibika. Kuwajibika sababu ni sheria, sisi kama viongozi ama wabunge wa bunge la Machakos, tunajua kwamba ukivunja sheria, utajua dhawabu na utaadhibiwa kulingana na sheria. Kwa hivyo Bw. Spika, mimi naunga mkono kwamba tupitisha ili tufikie siku ambayo tumepewa na tupatiane ili tutimize jukumu letu kama bunge. Asante sana, Bw. Spika.

Hon. Speaker: Asante. The motion is properly laid. You can proceed and take us through the report.

Hon. Katumo: And now the report on amendment to leadership and integrity code of Powers and Privileges committee.

Introduction

Mr. Speaker, Sir, the Ethics and Anti-Corruption Commission is mandated to enforce and ensure compliance with the provisions of chapter 6 of the Constitution, 2010 and the Leadership and Integrity Act, 2012. Mr. Speaker, sir, under section 37 of the Act, each public entity with state officers is obliged to develop a specific leadership and integrity code for the state officers serving in that entity.

Committee Membership

Hon. Benard Mung'ata	-Chair
Hon. Justus Katumo	-Vice chair
Hon. (Ms.) Veronica Mbithe	-member
Hon. (Ms.) Alice Nzioka	-member
Hon. Peter Nzioki	-member

Objectives of the Code

Mr. Speaker, Sir, this code is made pursuant to section 37 of the Leadership and Integrity Act, 2012 to:-

1. Give effect to chapter 6 of the constitution of Kenya
2. To establish standards of integrity and ethical conduct in the leadership and management of public affairs of the County Assembly by ensuring that the state officers respect the values, principles and provisions of the Constitution and other applicable laws or policies on the standard of conduct and performance expected of public officers in the discharge of their duties.

Mr. Speaker, Sir, in chapter 6, authority assigned to state officers is a public trust to be exercised in a manner that:-

- i. Is consistent with the purpose and objective of the Constitution;
- ii. demonstrates respect for the people;
- iii. brings honour to the nation and dignity to the office; and
- iv. promotes public confidence in the integrity of the office.

Mr. Speaker, sir, in September last year, the Assembly received the leadership and integrity code from the Ethics and Anti-Corruption Commission that required all the county assemblies to read and make amendments that best suit their operation and then forward the amendments back to the commission for approval.

Mr. Speaker, Sir, the report on the above amendments was tabled in this Assembly in November last year by committee on Powers and Privileges and was discussed and approved by the House. The specific amendments were later forwarded and received in the Ethics and Anti-Corruption Commission office on 7th December, 2015 as required.

Mr. Speaker, Sir, on receipt of the amendments, the commissioner approved amendments on 5th January, 2016 subject to the mandatory amendments indicated below:-

1. Title

Was supposed to delete the word ‘Conduct’ under title page 2 so that it reads ‘Leadership and Integrity Code for the state officers in the County Assembly of Machakos.’

2. Moral And Ethical Requirements Section 13

To insert new section in 13(2) to read ‘a person who wishes to be elected in an office shall for the purpose of this code submit to the Independent Electoral and Boundaries Commission a self-declaration in the form set out in the First Schedule to the Act.’

Mr. Speaker, Sir, the above two mandatory amendments have been incorporated in the new document as directed by the commission.

Requirement

Mr. Speaker, Sir, on 17th to 18th June, 2016, the committee retreated to Mombasa to discuss the amendments which they later approved on the following needs to be executed:-

1. Publish the amendment code in the Kenya Gazette within 90 days .The deadline for this is therefore 30th June, 2016.
2. All service state officers in the County Assembly to sign and submit to the code in the First Schedule in duplicate within 14 days of publication in the Gazette.
3. Submit one copy of the duly executed commitment form in respect of each state officer and a copy of the Gazetted code to the commission within 7 days of such execution.
4. All the new state officers elected the County Assembly to sign and commit to the code at the time of taking oath of office or within 7 days of assuming state office.

Conclusion

Mr. Speaker, Sir, the Leadership and Integrity Code is a constitutional requirement and each person has an obligation to respect and uphold the Constitution. The Constitution is the supreme law in the legal system and ranks above all other legislation. This is why at the eve of taking office, all Hon. Members took an oath to abide and adhere to the Constitution.

Mr. Speaker, Sir, the major challenge of implementation of Chapter 6 of the Constitution is lack of awareness on the implications of the Constitution. In order for the Constitution to function properly and deliver visible results, the citizens must have a full understanding of the Constitution.

Mr. Speaker, the most effective way to ensure citizens understand the Constitution is through civic education. Citizen participation in governance is another feature that runs through the whole Constitution. All these mechanisms are useful in ensuring that the provisions of the Constitution in relation to leadership and integrity are adhered to.

Mr. Speaker Sir, it is therefore my pleasant duty and privilege on behalf of the committee to table this report for approval. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you very much. That is the report and the code is attached. Hon. Members you remember sometime last year, we had a meeting with the EACC and we went through the code. We deliberated with our in-house counsel here, we made proposals on amendments and we sent to them for approval and that is the result of the current report that we have. With that Hon. Members, I open the floor for deliberations on the report which as you heard from the presenter is a constitutional requirement and we are bound by it. I open the floor for contributions. Hon. Kasyoka, your contributions please.

Hon. Kasyoka: Mr. Speaker you have caught me unaware. I was trying to get through the report so that I can have material for the same. Thank you Mr. Speaker. But I will stand to support the report.

Hon. Speaker: Yes Hon. Kamitu.

Hon. Kamitu: Mr. Speaker, Sir, I stand to support this noble report by the committee and through the statements and through the report that were clearly read by Hon. Justus Katumo, Mr. Speaker, Sir, on a very sincere note we don't need a lot of explanation because this is one of the code that all the state officers are supposed to abide by and my emphasis on this point Mr. Speaker, Sir, is that as we go signing for this report, our concern is also a question that us as the Hon. Members elected to represent our electorate, I will request this House to also make a programme because our electorate are also in darkness in regard to this important report because also the electorate are the mainstream; they are the civil society who are supposed to know their civic education so I was requesting this Hon. House if a programme could be made so that we may also go out and give this civic education to our electorate.

Otherwise Mr. Speaker, I really congratulate this committee for having sat down and seen it is important for us now; it is just like a reminder because we are bound to know the integrity on chapter 6. It is very important as per the Constitution for every Kenyan because integrity is part of us and this is where as Hon. Members, we are supposed to adhere. Thank you very much Mr. Speaker, Sir.

Hon. Speaker: Hon. Nduva.

Hon. Nduva: Mr. Speaker, I stand to support the motion and also congratulate the committee on the task they have done to make amendments on the issue. Mr. Speaker, the code of conduct is a requirement of the Constitution and each state officer is supposed to adhere to and, Mr. Speaker we understand very well that this is something that we cannot run away from because we are a reflection of the whole society of this country, so, Mr. Speaker, I think and I feel that it is our obligation to support and sign this document.

Mr. Speaker, we are also grateful because members will get time to read the report and the amendments which after quickly going through Mr. Speaker, are important as far as the conduct of state officers and Hon. Members is concerned so, Mr. Speaker, I stand to support the motion. Thank you, Mr. Speaker.

Hon. Speaker: Thank you very much. Hon. Peter Nzioki.

Hon. Nzioki: Bw. Spika, nashukuru kwa kunipa nafasi hii. Bw. Spika, unajua kila mahali kuna sheria zake. Hata nyumba zetu zina sheria. Kila nyumba ina sheria ambazo karibu zinafana na zile zingine. Bw. Spika, hizi ni sheria ambazo zinaambatana na mwongozo wa viongozi na hizi ni sheria ambazo tunatakikana tufuate.

Bw. Spika ningewauliza ndugu zangu waheshimiwa walioko hapa, tusome hizi sheria ambazo zimeshikanishwa hapo kwenye hiyo ripoti ili waweze kuelewa kwa sababu ni lazima kila mtu awajibike kwa mujibu wa sheria ili asipatikane upande ule mwingine wa makosa halafu aanze kulaumu wale wengine. Sheria ambazo tumetunga ni lazima sisi tuzifuate na ni sheria ambazo tunatakikana tuelewe vizuri. Kwa hivyo Bw. Spika, ningewaomba waheshimiwa wenzangu tusome hizi sheria ili tusipatikane na makosa ambapo tunaweza kuanza kulaumu wengine. Asante sana, Bw. Spika.

Hon. Speaker: Asante. Yes, Bw. Kanui.

Hon. Kanui: Mr. Speaker, Sir, I stand to support this motion because as an emerging or young democracy, we need to understand our role as leaders and leadership for a developing economy like us needs to be regulated and personal interest and interest of the public be separated. That is why I stand to support this Leadership and Integrity Code so that we can enhance our young democracy. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Asante. Yes, Majority Leader.

Majority Leader (Hon. Mwonga): Mr. Speaker, it is said listening is part of talking and I have listened carefully which makes part of my contribution in this. Mr. Speaker, allow me to start by congratulating this committee, the mover of the motion and the seconder of the same. I listened carefully to the seconder of this motion as she was seconding it. First, I admired her Kiswahili oratory, Mr. Speaker and I want to congratulate her.

(Applause)

On the same Mr. Speaker, I want to say we have no escape route from this, Mr. Speaker. We have to pass this document. It is not only for Machakos County Assembly but also for the whole nation or the 47 Counties so Mr. Speaker, I have no much to say other than to urge the Hon. Members to support this important document. Thank you, Mr. Speaker.

Hon. Speaker: Thank you. We will hear Hon. Mueni and then we return the matter to the mover.

Hon. Mueni: Mr. Speaker, Sir, I congratulate the committee because I think you have done a lot of work to come up with the report which members have no choice but to support the report because if you are a *mheshimiwa*, you have to behave like a *mheshimiwa* but not like a person who does not know what he or she is doing and Mr. Speaker, Sir, I request you to give the *waheshimiwa* time to go there outside and give a civic education to the community. Thank you Mr. Speaker, Sir, I support the motion.

Hon. Speaker: Thank you. Let us hear Hon. Nzoka and then the mover.

Hon. Nzoka: Mr. Speaker, I think this is how we should be behaving. I think this is for those who are wrong doers; who are wrong thinkers. They can now understand how... otherwise if you fail to follow this one you will be brought to human sense. Otherwise like me I have no problem with this one; I even I don't need to read it. I even do better than what is here and I think you appreciate.

(Laughter)

If you are in a wrong place or if you do something wrong, there is a chance of apologizing. You just move straight and say 'I am sorry because of this and this' and you say the right sorry not because you want to jump somewhere. What I can say is for all those who have bad minds to others, they should read this one carefully and they should learn to understand that here we are just passing; it is only the time which has not come, so do better to your person, to your neighbour, to your friend, to your family and also to the rest of the world and if you do, that in fact, God will give you a chance, even if it is two hours to stay in this world. So Members, it is time for those who go in a cocoon somewhere and start discussing others, thinking bad of others--

Hon. Speaker: Point of order---

Hon. Kamitu: *(On a point of order)* Mr. Speaker, Sir, I don't want to say that I am wondering but my point of order is that it's like we are discussing hate speech or something because I am really not getting what *mheshimiwa* Nzoka is trying to drive at. We are talking about integrity and I am wondering, he is talking about forgiveness and the likes so my point of order is, can Mr. Nzoka substantiate; we are not talking about hate speech, we are talking about integrity, obligations of chapter 6. That is my point of order, Mr. Speaker, Sir. Thank you.

Hon. Speaker: That point of order is overruled. Hon. Nzoka, proceed.

(Laughter)

Hon. Nzoka: Thank you, Mr. Speaker, Sir. I think my colleague here does not understand. Even hate speech is bad. Apart from that one, to go somewhere and think how you

shall beat Kamitu somewhere in darkness is also bad. We are talking about integrity. Integrity is you in person and it is in you. You should remove all bad thoughts about others. You should think positive concerning others. Even if I do you bad, please come and tell me; if am not apologizing, you know that I am one of those who need integrity. You escort me and take me to rectify, even if it is in a rehabilitation centre.

(Laughter)

So Mr. Speaker, Sir, I say it is a very good document for those who are wrong thinkers, wrongdoers, someone who sits somewhere and starts discussing about others. We should be honest to our friends, whatever they are, whether English, Indian, or wherever he comes from. You have to know that he is your brother and you are not here permanently. This House is here permanent; all these bodies I can see here are not here permanent. Thank you, Mr. Speaker, Sir;

Hon. Speaker: I take the point of order.

Hon. Nzoka: I apologize before I am challenged. Thank you.

(Laughter)

Majority Leader (Hon. Mwonga): Mr. Speaker, I am wondering whether we have bodies in the chamber or we have Hon. Members, Mr. Speaker.

Hon. Speaker: As I heard the Hon. Member, he meant well. Let us proceed.

(Laughter)

Hon. Katumo: I want to take this opportunity to thank Hon. Members who contributed positively to this motion before us. Aware that we have a deadline that is given to us to be responsible towards this code and of course we know in the schedule, if you look the schedule given there, it calls upon members before you even sign, you must read and understand. It is part of our responsibility on how you carry yourself and business in this Assembly and as a state officer.

Therefore, I call upon members, I really want to challenge the speaker who has just left the floor that there is a lot of need to read and to understand when you are appending your signature; I think it is part of empowerment. Information is power and if you know how you are supposed to conduct and carry yourself as you do your daily responsibility as a state officer, I think it is good. I want to thank members and I think it is upon us now to go to the next step to make sure that we pass and approve this report for the other business to be carried on. Thank you.

(Applause)

Hon. Speaker: Hon. Members, why Hon. Nzoka was not out of order, when you go to page 14 of the report, you realize that Hon. Nzoka was perfectly in order because he was deliberating on the matter ‘victimization.’ Point 43 states ‘A state officer shall not in any way victimize any other state officer or public officer or any other person for any lawful action or omission.’ So, Hon. Kamitu, stay advised. I therefore proceed to put the question

(Question put and agreed to)

The report is accordingly adopted by this Assembly.

ADJOURNMENT

Hon. Speaker: Hon. Members, there is no other business for the morning. We shall meet in the afternoon.

The House rose at 10.34 a.m.