

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 27th July, 2021

The House met at 10.14 a.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

(Quorum Bell rung)

COMMUNICATIONS FROM THE CHAIR
MACHAKOS COUNTY CLIMATE CHANGE FUND
ADMINISTRATION (REGULATIONS) 2021

Hon. Speaker: Good morning, Hon. Members and welcome to this sitting which is the first day after the short recess that you had. It is hoped that you rested well that you are able to carry on with your work and on communication No. B, Hon. Members, I am on Communication on Machakos County Climate Change Fund Administration Regulations 2021. Hon. Members, under Article 183(2) of the Constitution, it is required that a county executive may prepare, propose legislation for consideration by County Assembly and in addition Article 185(1) of the constitution provides that the legislative Assembly of a County Government is vested and exercised by its County Assembly.

Pursuant to those provisions Hon. Members, the Assembly is in receipt of the Machakos County Climate Change Fund Administration (Regulations) 2021 published by the Executive Committee Member for Finance and Economic Planning and forwarded by the Chief Officer for the Department of Water, Irrigation, Environment, Climate Change and Natural Resources.

The Regulations have been prepared pursuant to Section 7 of the Machakos County Climate Change Act 2020 which you passed just the other day and which provides that the Executive Committee Member responsible for matters relating to finance shall in consultations with the Executive Committee Member responsible for matters relating to Climate Change develop Regulations for the administration and management of the County Climate Change Fund.

You appreciate Members under that Act which you passed, there is a grant that is given to manage matters of the environment. So, these regulations are made to operationalize that Act for the proper administration of the Fund and the Regulations are consequently hereby committed to the Committee on Delegated Legislation for scrutiny and submission to the Assembly for approval. The committee should report to the House within 30 days from the date of this communication so that the Act can be operationalized.

PUBLIC PARTICIPATION GUIDELINES

The other communication Hon. Members is on the County Public Participation Guidelines. Hon. Members, the county Assembly also received the Machakos county public participation guidelines from the office of the County Secretary. These guidelines have been prepared pursuant to Section 5(1) and (3) of the Machakos County Public Participation Act, 2014, which states that the County Secretary and the Clerk to the county assembly shall formulate public participation guidelines for the County Executive and the County Assembly respectively.

The guidelines were developed under this Section and we note that they are late in coming the Act having been passed in 2014 but nevertheless they are laid before the County Assembly now for approval and so the Regulations are committed to the Committee on Delegated Legislation for scrutiny and submissions to the Assembly for approval, and the committee should report to this House likewise within 30 days from the date of this communication. Thank you, Hon. Members.

PAPER LAID

REPORT ON THE STATUS OF ATHI RIVER/MAVOKO SLAUGHTER HOUSE

Hon. Mitaa: Thank you, Hon. Speaker. Before I lay the Paper, there is a concern and I think I have raised this concern for a very long time; we seem not to be utilizing the internet Madam Speaker; we agreed to go paperless and I have been unable to use my iPad for almost five months now so I wish that concern to be handled.

Hon. Speaker: Just as a response Hon. Mitaa. The issue of the internet has been a matter of the desk of the CASB every other day and I am hoping that the Clerk is watching these proceedings because it is getting tiring. It is a matter that we have said it be resolved once and for all but it is surprising even as we say we go paperless, we still do not get the connectivity. So, it is a matter that is going to be raised again and hopefully for the last time.

Hon. Mitaa: Thank you, Hon. Speaker. Hon. Speaker, I wish to lay the following Paper on the floor of the House today, Tuesday 27th July, 2021. The report of the Committee on Agriculture on the status of Athi River/Mavoko slaughter house. Thank you, Hon. Speaker.

NOTICE OF MOTION

REPORT ON THE STATUS OF ATHI RIVER/MAVOKO SLAUGHTER HOUSE

Hon. Mitaa: Thank you, Hon. Speaker.

That aware that the mission for the Department of Agriculture, Livestock and Fisheries in Machakos County is to promote innovative, commercially-oriented and modern agriculture through development and enactment of enabling legal framework;

Aware that Article 183(3) of the Constitution of Kenya provides that, the County Executive Committee shall provide the County Assembly with full and regular reports on matters relating to the County;

Informed that in exercise of the functions vested on County Assembly in Article 185(3) of the Constitution, the County Assembly through the Committee of Agriculture requested for the half year performance report for the Department of Agriculture for the FY 2020/2021;

Cognizant that pursuant to Standing Order 190(5) the committee analyzed the section of the report on the status of Mavoko slaughter house, conducted site visits and consequently compiled a report;

Hon. Speaker, I wish to give Notice of Motion that this Hon. House discusses and approves the report of the Committee of Agriculture on the status of Athi River/Mavoko slaughter house.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mitaa.

STATEMENT

BUSINESS FOR THE HOUSE FOR 27TH TO 28TH JULY, 2021

Hon. Speaker: Hon. Members, under this Order, we have one business by Hon. Mark Muendo Majority Leader. I can see he is not here but Hon. Minority Leader is present.

Hon. Kamitu: Thank you very much, Hon. Madam Speaker. Hon. Speaker, the House Business Committee met on Monday, 26th July, 2021 to ballot business for the House pursuant to the provisions of the Standing Order 151(5). The Committee balloted business for the House as follows:

Tuesday, 27th July, 2021

Morning at 10.00 a.m.

Report of Implementation Committee on the Status of the Implementation of the Machakos County Trade Licensing Act, 2014 by Hon. Fredrick Muthoka, Chairperson Implementation Committee. Continuation of debate.

Afternoon at 2.30 p.m.

- (a) Report of Agriculture Committee on status of Athi – River Slaughter House as per half year report of the Department of Agriculture, Food Security, Livestock and Cooperative Development for the FY 2020/21 by Hon. Moses Mitaa, Chairperson, Agriculture Committee.
- (b) Statement Response on a Statement requested by Hon. Peter J. Mutiso on status of staffing in the mental health department by Hon. Cosmus Masesi, Chairperson, Health and Emergency Services Committee.

Wednesday, 28th July, 2021

Morning at 10.00 a.m.

Report of Public Accounts and Investments Committee on Audit Report of County Assembly Car Loan 2018 by Hon. Joseph Wambua, Chairman PAIC.

Afternoon at 2.30 p.m.

- (a) Report of Trade, Economic Planning and Industrialization Committee on the Status of Garbage Collection within the County by Hon. Cosmus Kieti, Chairperson of Trade, Economic Planning and Industrialization Committee.
- (b) Statement Response on a statement requested by Hon. Jacinta Luka on the compliance of the Assembly to the Persons with Disabilities Laws by Hon. Geoffrey Kamulu, Chairperson, of Youth, Women, PWDs and Sports Committee.

Thank you very much, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kamitu.

MOTION

REPORT ON IMPLEMENTATION STATUS OF THE MACHAKOS COUNTY TRADE LICENSING ACT, 2014

(Hon. Muthoka on 29.06.2021)

(Resumption of Debate on the Motion tabled on 29.06.2021)

Hon. Speaker: Hon. Members this is business for the Hon. Fredrick Muthoka, it is a continuation of debate, the question was proposed and you debated a bit, Hon. Muthoka, I think it is a matter of Members continuing to debate.

Hon. Muthoka: Yes.

Hon. Speaker: You are reminding them?

Hon. Muthoka: Yes.

Hon. Speaker: Okay, go ahead.

Hon. Muthoka: Thank you, Hon. Speaker. I had tabled the report, and I am just giving a summary on the implementation status of Machakos County Trade License 2014. Hon. Speaker, Machakos County Trade Licensing 2014 was approved on 3rd December, 2014 by County Assembly of Machakos. The Act was assented to by the Governor on 22nd December, 2014 and published in Kenya Gazette on 29th December, 2014. The Act seeks to provide for the guidelines for the grant of trade license in the County.

Hon. Speaker, the main areas of the Act which the department of trade was required to implement to make the Act operational include:

1. The County Executive Committee Member responsible for trade shall designate an officer of the County Government as the Chief Licensing Officer.
2. Establishment and maintenance of Register of Trade Licenses which shall be available for inspection by the public during official working hours.
3. The County Executive Committee responsible for Trade with approval of the County Assembly may make regulations for better carrying out of the provisions of the Act.
4. The County Assembly shall be determining the applicable fee relating to Trade Licenses when considering County Finance Bill.

The discussion with the Executive on the implementation of the Act

Hon. Speaker the Committee observed that the Act made references to the County Executive Committee Member for Trade to implement majority of the parts of the Act but currently most of the Trade Licenses or business permits were issued by department of finance and economic planning. In this regard, the committee resolved to invite officers from both departments to provide the implementation status of the Act.

Invitation with the Chief Officer Finance and Revenue Collection to the Committee

Hon. Speaker, the Chief Officer gave details on the implementation of the Act as provided below:

1. Designated an Officer of the County Government as Chief Licensing Officer

Hon. Speaker, Section 3(1) of the Act provides that the County Executive Committee Member for Trade shall designate an officer of the County Government as a Chief Licensing Officer. Section 5(1)(a) of the Act provide that an application for grant of Trade License shall be lounged with the Chief Licensing Officer.

In addition, Section 5(2) of the same Act provides that an application of grant of Trade License may be made in an electronic format. Further Section 5(3) provides that the Chief Licensing Officer may, before determining an application, require the applicant to provide additional information or documents necessary to enable the application to be returned.

Hon. Speaker, the Chief Officer informed the committee that there was no officer designated as the Chief Licensing Officer as per Section 3(1) of the Act and that the Trade licenses were being issued by Directorate of Revenue Management under department of Finance and Revenue Collection.

However, the County has embraced the use of technology application for Trade License pursuant to Section 5(2) of the Act. This can be accessed through website <http://machakoscounty.co.ke> for online services where single permit application can be done online. The committee was also informed that once the steps for online application for Trade License were completed successful, the determination of trade license takes place instantly or within minutes. The single permit is emailed to the customer and advised to pick hard copy from the nearest ward office.

At the website <http://machakoscounty.co.ke> there is a complainant's act section which has form that can be filled by those who wish to lodge any complaint. For the residents who have internet, they can call the department through the following number; 0748079365 or 0756799995. The committee was informed that the county has a fully-fledged ICT department which handles all ICT issues including the issuance of safety and security of networking system and websites in the County. This will also ensure that data obtained when applying for trade license is secure to establishment and issuance of a register of trade licenses.

Hon. Speaker, Section 13 of the Act provides that the Chief Licensing Officer shall establish and maintain a Register of Trade License which shall be available for inspection by public during official government working hours. The register shall contain such information as the Chief Licensing Officer may determine but shall not include confidential commercial information.

Hon. Speaker, the Chief Officer informed the Committee that the Directorate of Revenue Collection under the Department of Finance and Revenue Collection maintains a register at the sub-county level of the entities that have paid or should pay trade licenses.

2. Subsidiary legislation relating to fees and Charging for Trade Licensing within the County

Hon. Speaker, Section 16(1) of the Act provides that the County Executive Committee Member responsible for Trade may with approval of the County Assembly make regulations generally for the better carrying out of the provisions and purposes of this Act. Hon. Speaker, the Chief Officer informed the Committee that in the Act, the responsibility of enacting the subsidiary legislation was bestowed upon the County Executive Committee Member responsible for Trade---

Hon. Speaker: I just want to understand, had the report been read and question proposed?

Hon. Muthoka: Yes.

Hon Speaker: What if you go to recommendations so that we do not breach the process.

Hon. Muthoka: Okay, let us go to observations. Hon. Speaker, the committee made the following observations

1. The Machakos County Trade Licensing Act 2014 was partially implemented. The Committee established that traders were able to apply for trade licenses electronically as provided by Section 5(2) of the Act. Even though there was no officer designated as the Chief Licensing Officer as per Section 3(1) of the Act, trade licenses were being issued by Directorate of Revenue Management under the Department of Finance and Revenue Collection.
2. The trade license register is critical as it assists the County in fiscal planning and determination of the amount of local revenue to be collected to finance county budget. The Department had also implemented this partially by having the registers at the Sub-County level. There was need to consolidate these registers to have a one County register and upload it on a website which the public can access. The register should be updated quarterly.
3. The committee noted that the department is yet to submit the said Subsidiary Legislation for consideration by the House.
4. The County Assembly has been considering applicable fees relating to trade licenses on a yearly basis through the Finance Bills.

COMMITTEE RECOMMENDATIONS

Hon. Speaker, the Committee makes the following recommendations. There was need to amend the Machakos Trade Licensing 2014 to ensure its implementation was seamless. The Act has made reference to the Executive Committee Member for Trade whereas most of the trade licensing activities are under the County Executive Committee Member for Finance and Economic Planning. Thus, the Act would be implemented seamlessly if it referred to the Executive Committee Member responsible for issuance of trade licenses.

The implementation of this Act is very critical as it will streamline operations of issuing trade licenses and it cannot be abandoned awaiting amendments. The Department of Finance and Economic Planning which is implementing most of these provisions should:

- i. Consolidate the trade license registers at the Sub-Counties to one County register and upload it on a website which the public can access. The register should be updated quarterly. The register should also be available for inspection by the public during official working hours pursuant to Section 13 of the Machakos County Trade Licensing Act 2014.
- ii. Designate an officer of the County Government as the Chief Licensing Officer pursuant to Section 3(1) of the Machakos County Trade Licensing Act 2014.
- iii. Submit regulations for better carrying out of the provisions of the Act to the County Assembly for approval pursuant to Section 16(1) of the Machakos County Trade Licensing Act 2014.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Muthoka. Hon. Members, we had proposed this question and you debated a bit so we are continuing with the debate. If there are any Members who have any comments before we put the question for the vote? Hon. Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker, for the opportunity. I want to congratulate the implementation committee for tabling this report to the House. I would want to go straight to the observations of the committee and matters related to trade; there seems to be some sort of confusion amongst the department of finance and trade. It is like it is not clear which department it is supposed to handle what when it comes to trade licenses and I think this confusion somehow is affecting revenue collection in our County, Madam Speaker.

Even in this House, I belong to the Committee of Trade and sometimes I find the committee in a mix because of the responsibilities and it has been observed by this House that when we invite the Chief Officer and you find the same questions you are asking the Chief Officer from this committee are the same questions he/she is supposed to answer in another committee, Madam Speaker

My feeling is that, the definition of the roles seems not to have been taken care of to put off this confusion where we are supposed to have a Chief Licensing Officer but you find we do not have because this thing is being handled by the finance department. Madam Speaker, I believe the finance department is supposed to implement on matters which the trade department has undertaken but you find here, the finance department instead of implementing, it is acting; it is taking the role of the trade department.

So, Madam Speaker I would request the Executive to check on these roles and ensure for us to achieve full implementation of this Act, they need to correct at the departmental stage so that we know the roles of finance and its boundaries verses the roles and boundaries of the trade department.

So, Madam Speaker, this issue of trade licenses has been a problem. Recently we passed a Bill and I realized and followed the Chair of Finance because my traders at Kangundo had a problem. I realized they were being charged a previous amount and yet we had passed the current Bill and when I enquired, even the Chairman finance was at pains to explain to me because I could not even get a copy.

We had now to tell our people not to pay until they provide what the Governor signed for that fiscal year. So, Madam Speaker to bring to an end to this confusion, we need first to amend the guidelines for the departments at the Executive level because I believe if they do that, even in

this House the Committees will know where the borders are. As it is now, I don't know whether my Chairman trade is here, sometimes we find ourselves we cannot act because a matter has been brought to the trade committee but it is for the Finance Committee.

So Madam Speaker, I believe going forward, if this report reaches the Executive side let them correct the mess so that we move forward in oneness. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mitaa. Before that, let me call the mover of the motion to reply. Hon. Muthoka.

Hon. Muthoka: Thank you, Madam Speaker. Let me thank the Members for supporting this report. It is very important for the County especially on revenue collection. If we know the number of businesses we are doing; for example, if I ask how many private hospitals we have in Machakos County, no Member can say how many. How many private schools we have in Machakos, we cannot know. So it is good for the County Executive to implement this Act and know the boundaries like Hon. Mitaa has said. Thank you, Hon. Members.

Hon. Speaker: Thank you, Hon. Muthoka.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, at this juncture, the sitting of the House is adjourned to resume on 27th July, 2021 at 2.30 p.m. Thank you.

The House rose at 10.51 a.m.