

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 1st December, 2021

The House met at 10.22 a.m.

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

PRAYERS

Hon. Speaker: Serjeant at Arms, please ring the Bell.

(Quorum Bell rung)

COMMUNICATIONS FROM THE CHAIR
ATTENDANCE TO PLENARY SITTINGS

Hon. Speaker: Hon. Members, under this Order, I have a brief communication to do and that is to do the business of the House. The office of the Speaker does appreciate the work really you have done tirelessly in service to your people as per the mandate and the work your authorized to do in this House. I appreciate that also a lot of needs on the ground noting that it is rainy season and the people that you represent have very many needs including wanting you to go and provide seeds for them much as I appreciate that you have no money for that.

I also appreciate the rules are not in a good state of affairs especially with rains. The people on the ground want you also to go and see how you can provide solutions to them on the poor state of the roads and of course not to mention the issue of medicine in hospitals. I have a remind you members that when you have a plenaries, you required to be here and be here on time and with the sufficient quorum reminding you that we have come from far this Assembly and we have never had an issue of quorum. So let us try and keep the spirit that we have always had from day one we you are elected to be in this House.

(Applause)

IMPORTANCE OF TWO UPCOMING BILLS

I also urge you Members the same reminding you that there is retreat that is starting today and of very critical Bills and that is Climate Change Act and the SEKEB. So I remind you also to turn up in large numbers at the venues for those retreats so that you can do justice to the people that you serve. They do look upon you and they appreciate your ability to deliver them especially from the scourge of climate change through that legislation and also to provide for

empowerment to them through the SEKEB Bill which is intending to create opportunities of businesses for this county, Kitui and for Makueni. I am sure that you will not fail to do that alright and I wish you well in the process.

BILL

Second Reading

THE MACHAKOS COUNTY ENVIRONMENTAL MANAGEMENT BILL 2020 GAZETTE SUPPLEMENT NO. 13 MACHAKOS COUNTY BILLS NO. 9

Hon. Speaker: Thank you. On this one, I am calling upon Hon. Kisini, the Chairperson of lands, energy and natural resources committee.

Hon. Kisini: Thank you, Madam Speaker. Hon. Speaker, pursuant to Standing Order 121(1), I beg to move the Motion that the Machakos County Environmental Management Bill 2020 (Machakos County Bill No. 9) be now read a second time. Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Kisini. You call upon whom to second your motion?

Hon. Kisini: Madam. Speaker, I want to request Hon. King'ori, who is a member of the environment committee, to second.

Hon. Speaker: Hon. King'ori, kindly heed to the call. Hon. Kisini, you can just rest very near because we need in a moment. Hon. King'ori.

Hon. King'ori seconded.

Hon. Speaker: Thank you, Hon. King'ori; I see you are reserving an opportunity of debating on the motion. Hon. Kisini, please proceed and give us the highlights of the Bill and just go ahead. We note that it a relatively long report which members have looked at but for highlights, Hon. Kisini, can we agree with you as a House.

(A cellphone rung)

Hon. Members, let us not have distraction of phones ringing in the plenary. They need to be off. So, Hon. Kisini, you proceed to read the mandate of the committee. Are we in an agreement Hon. Kisini?

Hon. Kisini: Yes we an agreement, Madam Speaker.

Hon. Speaker: You read also the committee membership for the record. We will also want to hear the overview off the Bill that is 4.1 and you kindly tell us also about public participation 4.1 because this is a Bill and public participation must be robust. Then you also tell us about submissions from the public; what were the responses by the public and that is 4.7 and then you tell us about your committee recommendation; that is 5.0. That way the Members will have appreciated the content of the Bill. Go ahead.

Hon. Kisini: Thank you, Madam Speaker. As guided as directed, I want to start with the mandate of the committee.

2.0 MANDATE OF THE COMMITTEE

Hon. Speaker, the Committee on Environment, Lands, Energy and Natural resources is a sectorial Committee established under Standing Order 190 and the second schedule with specific mandates to deal with all matters related to the implementation of specific National Government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances and outdoor advertising; land survey and mapping; boundaries and fencing; electricity and gas reticulation; energy regulation; water management systems in built up areas and water sanitation services.

[Hon. Speaker left the Chair]

[The Temporary Deputy Speaker (Hon. Muthoka) took the Chair]

3.0 COMMITTEE MEMBERSHIP

Madam Speaker, I continue to read the Committee membership.

Hon. Ndawa: Point of information.

Hon. Temporary Deputy Speaker: Yes, Hon. Ndawa.

Hon. Ndawa: Thank you, Mr. Speaker, Sir. I just want to inform my brother Hon. Kisini that we do not have Madam Speaker in the House. We have Mr. Speaker.

(Laughter)

Hon. Temporary Deputy Speaker: Thank you. Stand guided.

Hon. Kisini: Thank you very much Hon. Ndawa for that information. I had not noted now we have the Mr. Speaker. Mr. Speaker, I want to continue with the reading of the report. Hon. Speaker, the membership of the aforementioned committee is as follows:

- | | | |
|---------------------------|---|---------------|
| 1. Hon. Robert Kisini | - | Chairperson |
| 2. Hon. Christine Koki | - | V/Chairperson |
| 3. Hon. Paul Museku | - | Member |
| 4. Hon. Mark Muendo | | “ |
| 5. Hon. Alex Kamitu | - | “ |
| 6. Hon. Brian Kisila | - | “ |
| 7. Hon. Cosmas Kieti Muia | | “ |
| 8. Hon. George King’ori | | “ |
| 9. Hon. Hellen Ndeti | | “ |
| 10. Hon. Jacqueline Nziva | | “ |
| 11. Hon. Jane Nyawira | | “ |

12. Hon. Joseph Musau “
13. Hon. Michael Mutiso “

4.1 Overview of the Bill

Hon. Speaker, the Bill comprises on the following key areas:

- i. Right to a clean environment.
- ii. Administration and Licensing
- iii. Waste Management
- iv. Hazardous waste and handling
- v. Monitoring, inspection and enforcement
- vi. Drainage and Sewerage
- vii. Air pollution and its licensing
- viii. Noise pollution

4.4 Public Participation and advertisement of the Bill

Hon. Speaker, Standing Order 120(3) provides that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the House.

In August 2021, the Assembly advertised for this bill and invited the public for public participation and submission of memoranda. This is in accordance with Article 174(c) of the Constitution that provides one of the objects of devolution is to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.

Further Article 196(1)(b) provides that A County Assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its Committees. Hon. Speaker, the principle of public participation holds that those who are affected by a decision have a right to be involved in the decision-making process. It seeks and facilitates for involvement of those potentially affected by or interested in a decision.

Hon. Speaker, the public participation was conducted in all the 40 Wards. The advertisement partly read as follows:

In the matter of Consideration of the County Assembly of Machakos for the Machakos County Environment Management Bill, 2020, the Machakos Abattoirs Bills, 2020 and the Machakos County Senior Citizens Bill, 2020; Pursuant to Standing Order 118 and 119 of the County Assembly of Machakos, The Machakos County Environment Bill, 2020, The Machakos County Abattoirs Bill, 2020 and The Machakos County Senior Citizens Bill, 2020 were read for the first time on the 27th April, 2021 and 8th June, 2021 and further committed to the Assembly's sectoral committees on Environment, Energy, lands and Natural Resources, Committee on Agriculture and that on Culture, Tourism and Social Welfare respectively;

Pursuant to Article 174(c) and (d) and 196(1) of the Constitution, Section 91(1) and (d) and 95(2) of the County Governments Act, 2012 and Standing Order 120(1) and (3) of the County Assembly of Machakos the sectoral committees on Environment, Energy, Lands and Natural Resources, Committee on Agriculture and that on Culture, Tourism and Social Welfare invites members of the public

and stakeholders to submit their recommendations on the above stated Bills.

4.7 Submissions from the Public

Hon. Speaker, as stated earlier Standing Order 120(3) provides that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the House. Public participation was conducted in all the 40 Wards. The following were the views submitted by the public from the eight sub-counties:.

1. Machakos County Government should task the department of environment in ensuring that before a licence of operation is issued to Companies within Machakos County, they produce a waste management plan. The County Government of Machakos to contract local business persons to manage public toilets at a fee.
2. The county government of Machakos to contract local businesspersons to collect and dump waste.
3. Provide for designated smoking zones.
4. Not to allow hawkers and street vendors to sell by the roadside blocking walk ways in towns.
5. Allocate an officer to man water bodies to curb water pollution.
6. The Bill to clearly explain how the street children will be controlled from interfering with the solid waste.
7. The Definition of waste to include toilet /toilet waste.
8. Athi River water to be protected by having a law against polluting the water.
9. Inspection of buildings should follow the law.
10. County should partner with CBO dealing with agroforestry to work out system of providing seedlings.
11. CBOs and NGOs to be allowed to create their seedlings near water.
12. The county government should conduct civic education on environment management.
13. All bins to be secured and the traders who have dug holes near their premises to ensure they are covered and litter burned.
14. All licences to be charged by the County Government. The Department of Environment should not introduce any other licence on the Environment Management Bill.
15. NEMA licence should be factored in the Bill. The Crushers in Kithimani Ward are causing air pollution to the residents. NEMA should control where the crushers should be located.
16. Ensure that bins are emptied on time to avoid littering the surrounding environment.
17. All charges on sewer to be paid to MAWASCO. The Bill should not introduce any other sewer charges. MAWASCO and County government to harmonize their charges on sewer.
18. It was noted that river Athi along Athi River region is highly polluted and should be protected from Nairobi County industries which dump waste in the river.
19. Broken bottles that are being disposed at river Athi River should be recycled.

20. Clinical waste should be well managed, methods for proper disposal to be well outlined in the Bill.
21. Noise pollution will need to be controlled and license or approval to be sought for during ceremonies.
22. It was recommended that planting of trees should be a priority in environmental management.
23. County Government should regulate and enforce garbage collection in major towns.
24. Propose specific days for sensitization of the locals in each sub county on ways of conserving the environment.
25. Provide for the issues of open and dangerous pits that are left uncovered -owners to cover such pits or face charges.
26. Designate smoking zones within the markets.

NB: A. folder is available for submissions from each Ward

5.0 COMMITTEE RECOMMENDATIONS

Hon. Speaker, after considering the proposals from the members of the public, the memoranda from Nature Kenya and submissions from the Committee, the following were the recommendations for amendments:

1. Insert the words ‘such as river valleys and riparian areas, wetlands, soil erosion, land degradation, forest landscape restoration, urban green spaces at the end of Clause 3(i) The justification is widen the scope of the Bill and also be specific on the areas which the framework of management will cover.’
2. Insert the words ‘and liquid’ immediately after the word Solid in Clause 3(j) The justification is to address liquid waste management which is currently an area of environmental concern.
3. Insert a new Clause 3(k) that reads ‘Initiate and support strategies to promote circular economy in waste management.’
4. Insert a new Clause 3(l) that reads ‘Promote sustainable production and consumption by the private sector, government agencies and the general public.’ The justification of introducing Clauses 3(k) and 3(l) is to embrace sustainable production process that addresses minimizing waste generated and also embraces the circular economy which is about recycling of waste products.
5. Insert the words ‘or with fats, oils, grease, used oil and hazardous household liquids at the end of Clause 49(1).’ The justification is because the stated liquids have been overlooked in the Bill despite them being potential threats to the ecosystem.
6. Insert a new clause 32(3) that reads ‘the County Government shall license persons operating waste collection centres.’ This is because private stakeholders are currently assisting a lot in environmental cleaning and waste management. It is also an avenue of revenue collection.
7. Insert the words ‘and other relevant organizations including Civil Society Organizations, Non-Governmental Organizations and Community Based Organizations immediately after the words National Government’ in Line 1.

The justification is because the said entities play a key role in complementing, government efforts to conserve and protect the environment.

8. Insert a new Clause 85(e) that reads 85(e) 'Regulate high noise levels in conservation areas, protected areas, Important Bird Areas, heritage sites and forests.'

The justification is that these area host wildlife where excessive noise affects how wildlife interact with their habitat.

6.0 CONCLUSION

Mr. Speaker, the relationship between humanity and the environment is a delicate balance. Since the industrial revolution, the world's population has increased exponentially, and with the population growth, the environment has been profoundly affected.

Improving the environment is crucial not only to the well-being of the planet but to the health of the billions of people who inhabit it. Mr. Speaker, the Constitution requires every county government to prepare an action plan on conserving the environment through the Environmental Management and Coordination Acts (EMCA).

In natural resources management, decentralization is justified on several grounds. It enables local people to identify and prioritize their environmental problems accurately, ensure efficient allocation and promote greater respect for the decisions with local inputs such as rules for resource use.

Hon. Temporary Deputy Speaker: Thank you, Hon. Kisini.

(Question proposed)

Hon. Members, I now invite you for comments about the Bill welcome. Hon. King'ori.

Hon. King'ori: Thank you, Mr. Speaker. I think we have a good Bill because you have a it is like a money Bill whereby we shall have ways of getting those people are polluting our areas and I think is a high time we care about area the environment. Mr. Speaker, thank you.

Hon. Temporary Deputy Speaker: Hon. Ndawa.

Hon. Ndawa: Mr. Speaker, I will start by congratulating the committee and more so the most able chairperson Hon. Kisini for coming up with this important Bill. Mr. Speaker, as you are aware, without this Bill, it is very difficult for the management of the affairs of the County because if one does something which is against the environment regulations, shore we may not be able to charge that person in court because we do not have legislation.

Mr. Speaker, I think this Bill needs to address this problem and the Inspectorate and the Executive officers would be using this Bill to ensure that we have serenity within the county. Mr. Speaker, I want to cite an example of an incident which took place last week in Matuu whereby somebody opened the waste product from his plot to the drainage line and the environment was so bad; people could not do business in that particular area but we forced to let him go because we had no law that we can really on but eventually we used the NEMA law and the person was taken to court so.

So, Mr. Speaker, I kindly request the Hon. House to agree that you read the Bill for the second time so that we can be able to go to the final stage of the Bill so that it can be operational. Thank you, Mr. Speaker, Sir.

Hon. Temporary Deputy Speaker: Hon. Katumo.

Hon. Katumo: Thank you, Mr. Speaker. Mr. Speaker, I wish firstly to congratulate the committee and the chairperson for doing a great job for this County in terms of environmental management and my belief is the county will remain directed and guided in terms of how to manage the environment. Going through the Bill, as the Chair reading through, I find sections and that are very important in order to bring order and smooth running of environmental management.

You should know, Hon. Members, that without a clean habitable environment, we have no place that we can live in. I am looking at what God created before He created man; He made sure that there is a friendly and habitable environment for him to stay but what has been happening since that time is degradation of the environment, air pollution and other factors that make this world uninhabitable.

I would wish to say as one of the Members has said; I come from the environ of Mlolongo, Athi River and Syokimau where drainage has been an issue since time immemorial and during the rainy seasons like we are in today, we find that plot owners are letting raw waste to or human waste into the streets and drainage areas and making the drainage very uncomfortable for our children and others.

Therefore, having a law in place or Regulations that we can refer to in terms of trying to bring order in the society is key. Therefore, I support the recommendations and especially what the public has been saying. You find that the public have been giving a lot of recommendations in terms of what we want to see in the Bill and the recommendations are very important. We should work with other stakeholders who are working towards making sure that our environment is clean and is well-managed.

Therefore, I support those recommendations and this Bill so that we may have it enacted into a law so that we can have order in our environment. Thank you, Mr. Speaker.

Hon. Temporary Deputy Speaker: Hon. Kamulu.

Hon. Kamulu: Thank you, Hon. Speaker. I would start by congratulating the Committee Chair and the members of the Committee for the good work that they have done. Mr. Speaker, this is a Bill that has come at the right time and I would like to congratulate the Devolution Conference in Makueni because the theme was connected to the climate change issue. Mr. Speaker, I would also like to congratulate the Committee because of following the law in regard to public participation; that was done very well and the public contributed to the issues were considered.

Mr. Speaker, it is in order we remember that the population is growing all over and the growth leads to degradation of not only the rural regions but also the urban centers and also leads to growth of towns. In the rural areas, we should not forget that we should increase the tree cover and that one should continue being improved because the population growth has led to removal

of forest cover so we should emphasize the growing of trees especially this time when the rains are falling.

Mr. Speaker, there are improved roads all over in the regions and not only in our County but all over Kenya in general and that has led to soil erosion so I recommend that we should also have gabions all over the roads so that we can reduce erosion and improve transportation activities.

There is also the issue of river; the major cause of soil erosion is rain water and the rivers in our region have been eroded and the people have also grown trees near the river banks. Mr. Speaker, I recommend that eucalyptus should also be given a distance so that we do not dry our rivers.

Mr. Speaker, the stakeholders who were included in the recommendations as it was read because I cannot remember each one, because I do not have the document but it is also good we involve all the stakeholders to make sure that our climate is improved. Otherwise, this is a very good Bill and we should build on it so that we can improve the region. Mr. Speaker, those are my observations. Thank you.

Hon. Temporary Deputy Speaker: Hon. Moffat.

Hon. Maitha: Thank you, Mr. Speaker. I want to join my colleagues in congratulating the environment committee which sat for long hours to bring such a wonderful Bill. Mr. Speaker, my ward borders Nairobi on the side of Joska and also Thika area in Kiambu County. Mr. Speaker, rivers from those two counties let raw sewage to flow into river Athi. The vegetable that people eat in those areas are contaminated because of pollution of river Athi.

Once this Bill is enacted into a law, it will help our people eat good vegetables because with that law and the Regulations, the companies that are letting raw sewage into river Athi will be dealt with using that law. Even as Hon. Ndawa said, raw sewage is being discharged by plot owners into open areas bringing problems because of the smell in urban areas like Tala, Kangundo and even our homes near the town centres we cannot sleep well because of the smell of the sewage let to flow along the roads and therefore this will bring sanity in our County.

I only wish that once this Bill is enacted, the Executive will use their powers to make sure that his menace is stopped once and for all. Thank you, Hon. Speaker.

Hon. Temporary Deputy Speaker: Hon. Johana.

Hon. Munyao: Thank you, Mr. Speaker. I want to start by applauding the Committee for this crucial Bill. Mr. Speaker, I have a major concern because during public participation and also as indicated, there was a proposal from one of the stakeholders that based on the current scope of the Bill that we either review; I am addressing myself to page 6 where the current scope of the Bill in relation to environment management is limited and the Bill has only captured waste management and pollution.

There was a proposal that the Bill has its title amended or we expand the scope so that it covers the other elements of environmental management. Mr. Speaker, I am not very sure and I stand to be corrected because after going through the contents presented to us and particularly the committee recommendations, I can see the proposal for amendments that we insert this and that but I have not seen where that proposal was factored because we were in agreement that we either expand the scope or maybe we change the title of the Bill so that we can be sure now that

it does not cover the other elements of environmental management, either we can have another Bill or maybe we see on how to expand the scope of the Bill in the House so that it caters for what could be missing.

Mr. Speaker, a few days ago we heard in the media where residents in one part of Machakos County were much concerned about the environment especially on tree cover where we expect our local women and youth to be empowered with where we want to plant trees and maybe engage them in other environmental improvements and practices. This Bill would have taken care of such lapses so my concern is that as the Bill stands, have we agreed to go by the title of this Bill or have we agreed to expand the scope? I am not very sure, Mr. Speaker. I stand guided. Thank you.

Hon. Temporary Deputy Speaker: Thank you, Hon. Johana. I am guided that the issue you have raised can be handled at the Committee of the whole House. Thank you.

Hon. Kisini: Thank you, Mr. Speaker and thank you Hon. Members for the debate and your input. You have heard the concerns of the Bill which if approved will control our environment and more so pollution. I also want to thank in absentia, the members of the public who had brought their concerns in the public participation fora that we had in all the 40 wards. I want to thank you Hon. Speaker for directing that concern of Hon. Johana which is also very important so that we can address that issue.

So thank you Hon. Members and this is a very important Bill if approved and it will control the environmental management and more especially at Athi River where Hon. Katumo had raised a concern or Mavoko sub-county in total. Thank you, Mr. Speaker.

Hon. Temporary Deputy Speaker: Thank you.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

(Applause)

ADJOURNMENT

Hon. Temporary Deputy Speaker: At this juncture, the House stands adjourned until Wednesday, 1st December, 2021 at 2.30 p.m.

The House rose at 11.14 a.m.