

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS
OFFICIAL REPORT

Wednesday, 15th May, 2024

The House met at 2.32 p.m.

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

PRAYERS

Hon. Speaker: Good afternoon, Hon. Members. I welcome you to this afternoon sitting; feel very much welcome and fully participate to our afternoon work. We can start off.

MOTION
IMPLEMENTATION STATUS OF ASSEMBLY
RESOLUTIONS BY THE COUNTY EXECUTIVE

Hon. Speaker: May I invite Hon. Dominic Maitha, Chairperson of Implementation Committee to come forward and take us through the motion.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker. Hon. Speaker, pursuant to Standing Order 188, I wish to move the motion THAT this Assembly adopts the report of the Committee on Implementation on the implementation status of Assembly Resolutions by the County Executive as laid on the Table of the House on Tuesday, 14th May, 2024. Thank you, Madam Speaker. I wish to call Hon. Loyd to second my motion.

Hon. Speaker: Thank you, Hon. Member. Hon. Loyd.

Hon. Loyd Mutua (Nominated, MCCP) seconded.

Hon. Speaker: Thank you, Hon. Loyd.

(Question proposed)

Before I call the Members to debate this motion, I would like to call the mover to come and give us the highlights of the report. Welcome Hon. Maitha.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker. It is an elaborate report but I will to be as fast as possible so that Members can be in concurrence with me from where we started. The Select Committee on Implementation is mandated to scrutinize resolutions of the Assembly including adopted Committee reports, petitions and the undertakings

given by the County Executive and examine whether such decisions and undertakings have been implemented within the sixty (60) days as provided for in the Standing Orders and whether such implementation has taken place within the minimum time necessary.

In line with its mandate, the Select Committee on Implementation wrote to various departments on different dates seeking the implementation status of various House resolutions. This is pursuant to the Standing Order 188(2) which provides that the Committee shall scrutinize the resolutions of the House including adopted Committee reports, petitions and the undertakings given by the County Executive Committee and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented and whether such implementation has taken place within the minimum time necessary and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.

The Committee during its various sittings scrutinized the written submissions received from the County Executive and it also held meetings with some of the Executive Committee Members and Chief Officers in order to seek clarification and deliberate further on submissions provided.

The records of evidence submitted to the Committee form the basis of the Committee's report on the implementation status as outlined in the Report. In its deliberations, the Committee observed that lack of legal frameworks to guide government policies affects efficient implementation and operations of such policies and other subsidiary legislations. Also it was noted that inadequate budgetary allocations hinder implementation of most House Resolutions.

Further, it was noted that late and incomplete responses by the County Executive usually lead to back and forth communication with the Committee thus delaying Committees reporting time to the House. The Committee after deliberations recommends that:

1. The County Assembly should enhance its scrutiny of laws, resolutions and motions to ensure that resolutions passed are implementable.
2. The House and by extension committees should ensure all resolutions passed are specific, measurable, achievable and realistic (SMART) and time bound to ensure that they are implemented and for effective follow up of the same.

I will now proceed to the main report.

1.0 PREFACE

1.1 Mandate of the Committee

The Select Committee on Implementation is established pursuant to the provisions of Standing Order 188 of the County Assembly Standing Orders. The Committee scrutinizes the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the County Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented and Whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.

Standing Order 181 further provides that, within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Executive Committee Member under

whose portfolio the implementation of the resolution falls shall provide a report to the relevant Committee of the House in accordance with Article 183(3) of the Constitution.

1.2 Committee Membership

The Committee membership comprises:

1. Hon. Dominic Maitha	Chairperson
2. Hon. Paul Muli	V/Chair
3. Hon. Ann Ndilo	Member
4. Hon. Justus Mutuku	“
5. Hon. Loyd Mutua	“
6. Hon. Catherine Kyee	“
7. Hon. Grace Bahati	“
8. Hon. Mercy Njagi	“
9. Hon. Vincent Mutie	“
10. Hon. Douglas Musyoka	“
11. Hon. Felix Ngui	“
12. Hon. Boniface Maeke	“
13. Hon. Julius Munywoki	“

2.0 INTRODUCTION

The Committee commenced to appraise itself on the implementation status of House resolutions pursuant to Standing Order 188 (2) which requires the Committee to scrutinize the resolutions of the House including adopted Committee reports, petitions and the undertakings given by the County Executive.

The Committee wrote to different departments on various dates during the first, second and part of third session of the Third Assembly seeking an update on the implementation status of the following resolutions relating to motions and reports under their dockets:

2.1 COMMITTEE SCRUTINY ON HOUSE RESOLUTION RELATING TO MOTIONS, REPORTS AND ENACTED ACTS

The Committee wrote to various departments on different dates seeking an update of the following House resolutions under the following categories.

A. Motions

- a. Resolution that, the County Government sets aside funds to equip Matuu Level IV Hospital with:
 - i. A modern ICU with 4 to 5 bed capacity.
 - ii. CT scan Machine.
 - iii. Installation of Oxygen plant and piping be done to the ICU, maternity, pediatric ward, medical wards and OPD.
 - iv. Modern casualty wing with 15 to 20 modern beds.
 - v. Completion of the mortuary.
- b. Resolution that the County Government considers initiating *Kazi Mtaani* Programme by engaging the public in maintenance of feeder roads with the supervision of the resident Sub-county Engineers.

- c. Resolution on conferment of Matuu, Kathiani, Masii, Mwala and Masinga towns to Municipalities.
- d. Resolution that the County Executive Committee Member for the Department of Water, Irrigation, Environment and Climate Change formulates and forwards for consideration by the County Assembly regulations to operationalize the Machakos County Water and Sanitation Act, 2014 with a view of creating borehole management Committees to manage the existing public boreholes in the County.

B. REPORTS

Report of the Committee on Delegated County Legislation on approval of the Machakos County Emergency Fund Regulations. In response, various Departments submitted the status of implementation to the Committee

3.0 IMPLEMENTATION STATUS OF VARIOUS HOUSE RESOLUTIONS RELATING TO THE MOTIONS

Resolution that the County Government sets aside funds to equip Matuu level 4 Hospital with:

- i. A modern ICU with 4 to 5 bed capacity.
- ii. CT scan Machine.
- iii. Installation of Oxygen plant and piping be done to the ICU, maternity, pediatric ward, medical wards and OPD.
- iv. Modern casualty wing with 15 to 20 modern beds.
- v. Completion of the mortuary.

The Motion was proposed by Hon. Judas Ndawa and was passed by the House on 16th November, 2022. The resolutions were due for implementation by 15th January, 2023 and by the expiry of the sixty days as provided by Standing Order 181, the department of Medical Services had done nothing in terms of implementation.

Based on the aforementioned, the Committee invited the Chief Officer on 25th July, 2023 to shed light on the above house resolution in relation to the implementation status of ICU, CT scan machine, oxygen plant, casualty and mortuary in Matuu Level 4. During the said sitting, the mover of the motion was present.

The Chief Officer submitted that, the department had no budget for such programs since the house resolution was passed in between the financial year. He further promised that, the Department will factor House resolution in the subsequent year's budget and that by the end of September 2023, implementation will have taken place.

2.1.1 Implementation status

The tender relating to the construction of CT scan block where the CT scan machine will be installed and the Modern casualty wing has been awarded and that the Department of Medical Services has already done the piping in maternity ward, pediatric and medical ward in preparation to installation of the oxygen plant. Madam Speaker, as of yesterday the Hon. Minority Leader confirmed that the following is already undertaken as reported here.

3.1.2 *Observation*

The resolution is being implemented.

3.1.3 *Recommendations*

The County Executive through department of medical services should factor construction of a modern ICU with 4 to 5 bed capacity and completion of the Mortuary in the financial year 2024/25 in line with the above resolution.

3.2 *Resolution that the County Government considers initiating Kazi Mtaani Programme by engaging the public in maintenance of feeder roads with the supervision of the resident Sub-county Engineers*

The motion was proposed by Hon. Francis Kitaka and was approved by the House on 22nd November, 2022 and the resolution was due for implementation by 23rd January, 2023. By expiry of sixty days, the Department of Transport had done nothing in terms of implementation.

The Committee wrote to the department of Transport on 12th June, 2023 requesting to be provided with information/ documentation relating to the implementation status of *Kazi Mtaani* program. The request was not responded to and the Committee wrote again on 27th June, 2023 reminding the CECM to forward the earlier sought information.

On 3rd July, 2023, the Committee met the CECM Transport and during the said sitting, the mover of the motion was present. The CECM further submitted that implementation of *kazi Mtaani* program requires a policy which should guide when implementing the stated House resolution. He also stated that the said policy should be drafted by the County Assembly legal team.

The Committee was of contrary opinion, given that Article 183(2) of the Constitution mandates the County Executive Committee to prepare legislations for consideration by the County Assembly.

3.2.1 *Implementation status*

Going by the proposal made by the CECM Transport, the Committee requested the CECM to submit such proposal to the office of the Clerk by 11th July, 2023. The submitted proposal was to serve as an advisory.

3.2.2 *Observations*

The resolution is not implemented due to lack of policy

3.2.3 *Recommendations*

Aware that by the time of adopting this report, the County Executive had not submitted the policy to implement the Kazi Mtaani programme: the Committee recommends that the department of Transport, roads and public works formulates the Kazi Mtaani policy to aid in Implementation of resolution and forward the same to the County assembly for Consideration and approval.

Madam Speaker, we have had a serious challenge in this because; one the CCEM for this department who we were dealing with then was transferred to the department of lands energy and municipalities and it has been a big challenge because when the CCEM who came in place she said she is not privy but our clerks department tasked her to draft the policy so as up to date we are still to get that communication Madam Speaker.

3.3 Resolution that the County Executive Committee fast tracks the conferment of Matuu, Kathiani, Masii, Mwala and Masinga towns to Municipalities.

The Motion was proposed by Hon. Judas Ndawa and was approved by the House on 19th October, 2022 and the resolution was due for implementation on 20th December, 2022.

The Committee wrote to the Chief Officer Urban planning on 8th May, 2023 requesting to be provided with information on the implementation status of the above stated resolution.

On 15th May, 2023 the committee met the Chief Officer who informed the Committee that the department had already submitted the proposal on conferment of Matuu, Kathiani, Masii, Mwala and Masinga towns to Municipalities to the Cabinet for approval.

3.3.1 Implementation Status

In exercise of the powers conferred by Sections 8(3) and 9 of the Urban Areas and Cities (Amendment) Act, 2019 the Governor of Machakos appointed an ad-hoc Committee to consider the recommendation by Machakos County Executive Committee in order to grant municipality status to Matuu/ Yatta town, Kathiani/ Mitaboni town, Masii/ Mwala town and Masinga/ Ekalakala/ Kivaa town through a gazette notice No. 5178 of 3rd May, 2024.

3.3.2 Observations

The resolution is partially implemented.

3.3.3 Recommendation

The County Executive through the Department of lands to move with speed to ensure the resolution is fully implemented. Madam Speaker, just for explanation as you can see the Hon. Kisila for Mwala confirmed as the Chairperson devolved unit that the above issue has been handled and the gazetment has already been done so we are just waiting the normal procedure as per the constitution so that they can confirm to the Governor and then confirmation is done within the constitution Madam Speaker.

3.4 Resolution that the County Executive Committee Member for the Department of Water, Irrigation, Environment and Climate Change formulates and forwards for consideration by the County Assembly regulations to operationalize the Machakos County Water and Sanitation Act, 2014 with a view of creating borehole management Committees to manage the existing public boreholes within the County

The motion was proposed by Hon. Felix Ngui, approved by the House on 4th April, 2023 and the resolution was due for Implementation by 5th June, 2023.

Informed by the above resolution and in line with Standing Order 188 (2) (b) which provides that the Committee shall scrutinize the resolutions of the Assembly and examine whether or not legislation passed by the Assembly has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary; the Committee resolved to be provided with information relating to the implementation status of all enacted laws. That is starting from the first Assembly

On 26th February, 2024, the Committee wrote to the Department of Agriculture vide a letter Ref: MKSCA/PSC/CMM/IMPLI/VOL.4/27. The Committee wanted to know the operationalization of:

- i. Machakos County Cooperative Societies Act, 2015

- ii. Machakos County Agricultural Development Fund Act, 2014
- iii. Machakos County Cooperative Enterprise Development Fund Act, 2021
- iv. Machakos County Abattoirs Act, 2022

The Department of Agriculture through a letter
Ref: MIN/AFSCD/C.A/VOL.1/54 Dated 8th April, 2024 submitted as follows:

3.4.1 Implementation status of Machakos County, Agricultural Development Fund Act, 2014

That the Department of Agriculture and Food Security accept and appreciate the criticalness and importance of this instrument of legislation. However, the department would be glad if provisions are made for the review and amendments of certain sections of the Act in order to align them to the present legislative environment and realities as concerns with financial management in Devolved units.

They stated that, some of considerations in the proposed review and amendments would include the management of Conditional grants within the Department and that the Department has however, in anticipation of the realities of implementing the Act began exploring on the requisite budget and human resource needs required to operationalize the fund.

3.3.1.1 Observations

The Act is not implemented

3.4.2 Recommendations

The Sectoral Committee on Agriculture to make follow up with the Department of Agriculture and ensure that the proposed amendments are processed and subsequent passing of the required Regulations to operationalize the Act. Madam Speaker, you realize that the committee on implementation cannot start seeking for the implementation of the same act without the committee on agriculture going through the amended Act, subject it to public participation and then they bring it to this House for approval. It is at that point in time once that is done then the implementation status can be forwarded to the committee on implementation for it to be pursued.

3.4.3 Implementation of Machakos County Cooperatives Society Act, 2015

The Department informed the Committee that the Machakos County Cooperatives Society Act, 2015 preceded the development of the National Cooperatives Societies (Amendment) Act, 2020 which has undergone a lot of evolution.

In line with the above, the CECM informed the committee that the Department intends to propose a review and initiate an amendment to the Machakos Cooperative Society Act, 2015 in order to harmonize it with the National Cooperative Society Instruments and ideals.

The CECM also stated that, since the approved budget for the financial year 2023/2024 had not captured the budget for the development of the Regulations, the Department has factored the same in the second supplementary budget.

3.4.4 Observations

The Act is not implemented.

3.4.5 Recommendations

The Sectoral Committee on Agriculture to make follow up with the Department of Agriculture and ensure that the proposed amendments are processed and subsequent passing of the required Regulations to operationalize the Act. Madam Speaker, you will find that the department has already done the proposed Regulations but they cannot be forwarded to the Committee of Implementation unless they are taken to the Committee of Delegated Legislation and follow the due process of the law so that it can be brought to the House for approval then committed to the committee of Implementation so that we can see the implementation status. That is why we have given that recommendation.

On implementation of Machakos Abattoirs Act, the Committee was informed that the Department has finalized on drafting of the proposed Machakos County Abattoirs Regulations and that the said draft awaits pre-publication scrutiny with relevant stakeholders including the relevant County Assembly committees.

Observations

The Department has developed a draft Regulations to operationalize the Act

Recommendation

Select Committee on Delegated County Legislation to make follow up with the Department of Agriculture and ensure the stated Regulations are approved by the House to operationalize the Act.

As related to the enacted Acts under the Department of Environment and Natural Resources, the Committee wrote to the CECM vide a letter Ref: MKSCA/PSC/CMM/IMPLI/VOL.4/29 dated 26th February, 2024 requesting to be provided with information on implementation status of the following Acts:

- i. Machakos County Water and Sanitation Act, 2014.
- ii. Machakos County Sand Harvesting (Amendment) Act, 2022.
- iii. Machakos County E-Waste Management Act, 2015.
- iv. Machakos County Climate Change (Amendment) Act, 2022.
- v. Machakos County Environmental Management Act, 2022.

In response to the above request, the Department forwarded copies of the above stated Acts and it was silent on the implementation status of the same.

Madam Speaker, before I proceed to the Department of trade, we wrote these letters to the department of water several times and up to date as at the time we were publishing this report, the department had not responded to us on the implementation status. So we had to bring this report so that we can task the Committee on environment to pursue the same with the department of environment so that we can see to what extend are they holding this Acts. At that point in time, the Implementation Committee will follow up because they have not stated that they will not implement neither have they stated they will implement. So, it is still waiting unless another response is given.

Madam Speaker, as related to the enacted Acts under the Department of Trade, the Committee wrote to the CECM requesting to be provided with information on implementation status of the following Acts:

- i. Machakos County Trade License Act, 2014.
- ii. Machakos County Government Administrative Structures Act, 2015.

- iii. Machakos County Public Market and Stalls Act, 2016
- iv. Machakos County Ward Development Fund (Amendment) Act, 2016.
- v. Machakos County South Eastern Kenya Economic Bloc Act, 2022.

Up to date Madam Speaker, no response was received in relation to the above listed Acts.

Following submissions by the department of Environment and Natural Resources which were non-responsive and for the lack of response by the department of Trade, the Committee resolved to seek for the information relating to the implementation status of all enacted Acts through the Office of the County Secretary. The said information was sought through a letter Ref: MKSCA/PSC/CMM/IMPLI/VOL.4/32 dated 3rd April, 2024.

On 11th April, 2024 the Department of Social, welfare and sports submitted their responses relating to the implementation status of the following Acts under their department vide a letter Ref: CGM/DGSW/CA/C/VOL (3) as follows:

On implementation status of Machakos County Persons with Disabilities Act, 2016---

Hon. Speaker: Point of order, Hon. Maitha. No. 46 concerning Machakos County South Eastern Kenya Economic Bloc Act, 2022; what did you say you had done?

Hon. Dominic Maitha (Muthwani, WDM-K): There is a response to that effect.

Hon. Speaker: There is! Why I am saying that is because we are already using that Act.

Hon. Dominic Maitha (Muthwani, WDM-K): There is a response to that effect because the County Secretary wrote a letter and I will respond to that as I proceed.

Hon. Speaker: Okay. Proceed.

Hon. Dominic Maitha (Muthwani, WDM-K): I was on implementation status of Machakos County Persons with Disabilities Act, 2016. The CECM submitted that, the department has implemented the Act since 2017 through various activities relating the persons with disabilities through yearly work plans. The CECM added that the department has prepared a draft Regulations to operationalize the stated Act.

Observations

The Act is partially implemented.

Recommendations

The Committee on Delegated legislation to liaise with the Department and ensure the stated Regulations is approved to operationalize the Act.

On Implementation Status of Machakos County Youth Empowerment Act, 2022
The Department submitted that the implementation is already in place through the following activities;

- i. Youth in sports (Governors Cup awards).
- ii. Machakos youth service which is ongoing.

- iii. Machakos youth empowerments Act (amendments), 2024 which is ongoing.
- iv. Youth involvement in climate change.

Observation

Implementation on going.

Recommendation

The Sectoral Committee on Gender, youth and sports to liaise with the department to ensure the proposed amendments are processed and approved in order to pave way for the drafting of the Regulations to fully operationalize the Act.

On the implementation Status of Machakos County Senior Citizen's Act, 2022, the Department submitted that the Act is implemented through the department's work plan under care and protection of the needy and elderly persons. The stated persons are supported through provisions of food staffs and home visits.

Observation

The Department is yet to forward Regulations to implement the aforementioned Act

Recommendations

The Department to forward the subsidiary legislation in line with the Machakos County Senior Citizen's Act, 2022. The Committee on Implementation wish to notify the House that, the following departments are yet to provide requested information as relates to the enacted laws and that the Committee will be tabling another report on the implementation status of the enacted Acts immediately it receives their responses.

The said departments are:

Department of Environment and natural resources.

- i. Machakos County Water and Sanitation Act, 2014.
- ii. Machakos County Sand Harvesting (Amendment) Act, 2022.
- iii. Machakos County E-Waste Management Act, 2015 and as stated on those Acts because the Members have the report.

Going to page 17 those are the department of Education and Social Services, department of health and Emergency Services, department of Justice and Legal affairs.

And to be prudent enough so that I can read them.

Department of Transport, roads and public works

- i. Machakos County Commuter Motor Vehicles Act, 2015.
- ii. Machakos County Designated Parking Places Act, 2015.
- iii. Machakos County Non-Motorized Vehicles Act, 2016.

Department of Trade, economic planning and Industrialization.

- i. Machakos County Trade License Act, 2014.
- ii. Machakos County Government Administrative Structures Act, 2015.
- iii. Machakos County Public Market and Stalls Act, 2016 .
- iv. Machakos County Ward Development Fund (Amendment) Act, 2016.
- v. Machakos County South Eastern Kenya Economic Bloc Act, 2022 which was not responded to and there is a response to that effect.

Department of Education and social services.

- i. Machakos County Vocational Training Centres Act, 2021.

Department of Health and emergency services.

- i. Machakos County HIV/AIDS Management Act, 2015.
- ii. Machakos County Health Services Act, 2021 (undergoing amendments).
- iii. Machakos County Fire and Rescue Services Bill, 2023.

Department of Justice and Legal Affairs.

- i. Machakos County Public Participation Act, 2014.
- ii. Machakos County Flags and Other Symbols Act, 2016.

Department of Labour, public service and ICT.

- i. Machakos County Pensions Scheme Act, 2022.

Department of Finance and revenue collection.

- i. Machakos County Rating Act, 2014 ..
- ii. Machakos County Tax Waiver Administration Act, 2022, which is already in place Madam Speaker and a motion to that effect was tabled here and passed.
- iii. Machakos County Revenue Administration Act, 2015

Department of Culture and tourism.

- i. Machakos County Liquor Licensing Act, 2014
- ii. Machakos County Cultural and Heritage Act, 2022

IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS RELATNG TO THE REPORTS

Resolution that the House approves the County Delegated County Legislation Committee report on Machakos County Emergency Fund Regulations.

The Committee wrote to the CECM Finance on 23rd February, 2023, on 26th February, 2024 and again on 26th March, 2024 requesting for Implementation status of the Machakos County Emergency Fund Regulations under the following areas:

- i. Established Machakos County Emergency Committee in line with Regulation 6.
- ii. Established County disaster management plan in line with Regulation 10(1).
- iii. Expenditure statements relating to the fund and the account balance as at 31st December, 2023.

In his response the CECM submitted as follows; I want to do some correction, it is 26th February, 2023 and 26th March, 2023 not 2024 that is a typo.

On the establishment of the Machakos County Emergency Fund

The CECM stated that according to regulation 6, the chairperson is to be appointed by the Governor, the Vice Chairperson is the CECM Finance and the secretary will be the Chief Officer Finance. He also stated that the following members and the chairperson were appointed and gazette on 12th September, 2023.

- i. Boniface Mutunga Kaleli - Chairperson
- ii. Violet Shaba Mkwisu - Member
- iii. Boniface Kawea Kisilu - Member

iv. Evelyn Wekesa - Member

The CECM further stated that the Machakos County Emergency Fund Committee is properly in place having been gazetted on 12th September, 2023.

On established County Disaster Management Plan in line with Regulation 10(1) of PFM Act 2012, the CECM stated that the County Disaster Management Plan has been developed in line with regulation 10(1) of the Public Finance Management (Machakos County Emergency Fund) Regulations, 2021 and that the plan was approved by the Machakos County Emergency Committee on 28th March, 2024.

He further stated that the plan is currently before the Machakos County Executive Committee and that upon consideration and approval by the Machakos Executive Committee, the County Disaster Management Plan will be forwarded to Machakos County Assembly for its necessary action under regulation 10(2) of the Public Finance Management (Machakos County Emergency Fund) Regulations, 2021.

On expenditure statements relating to the fund and account balance as at 31 December, 2023, the CECM submitted that as at 31 December, 2023, there was no expenditure on the Machakos Emergency Fund and there is still no expenditure on the Machakos Emergency Fund to date with reason being, despite the emergency committee being in place, the County Disaster Management Plan is yet to be in place, before any expenditure can be incurred on the Emergency Fund.

He further submitted that in its meeting on the 31st October, 2023, the Machakos Emergency Committee approved the opening of an operations account of the Emergency Fund at a commercial bank.

Implementation status

The resolution has been partially implemented. However, the Committee noted that the implementation process has been very slow.

Recommendation

The CECM Finance should ensure that the County Disaster Management Plan is approved by the Assembly as soon as possible in order to operationalize the Regulations fully.

Madam Speaker to expound on this, you realize that, when we did our 2023/2024 financial year budget, we allocated the department of Finance and Revenue Collection Ksh. 80 million. Unfortunately, on the first supplementary budget we supplemented about Ksh. 30 million so the emergency fund remained with about Ksh. 50 million.

On the second supplementary Budget, we went ahead and supplemented the same Ksh. 40 million. As at now, the amount of money remaining in the County Emergency fund kitty is only Ksh. 10 million. Considering the current rain effects Madam Speaker, Ksh. 10 million is too little to fund the current status.

So, our recommendation is that the resolution has been partially implemented. However, the Committee noted that the implementation process has been very slow. Right now, the amount of money in the County Emergency fund kitty is too little to implement. So, Madam Speaker we recommend that in future, the CECM Finance should not interfere with the emergency fund kitty whatsoever. If any expenditure is not incurred at the end of the year, we should hold the account as it is and if need be, increase because we might not know what we might expect in the next financial year like what has happened. Our recommendation is that the CECM Finance should

ensure that the County Disaster Management Plan is approved by the Assembly as soon as possible in order to operationalize the Regulations fully.

Hon. Speaker: You recall this one was committed yesterday?

Hon. Dominic Maitha (Muthwani, WDM-K): Yesterday we spoke about the issue of roads; it was not about the Emergency Fund.

Hon. Speaker: I think it was. The Plan itself was tabled yesterday and was committed to the committee concerned; Decentralized Units Committee.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker, for your directions.

COMMITTEE OBSERVATIONS

During its Sitting held on 13th May, 2024 the Committee made the following observations:

1. Lack of legal frameworks to guide government policies hampers the efficient implementation and operationalization of the policies.
2. Inadequate budgetary allocations hinder implementation of House resolutions.
3. Late and incomplete responses by departments which usually leads to back-and-forth communication with the Committee thus delaying reporting by the Committee to the House.
4. Most of the motions/legislations introduced in the House are not subjected to a thorough scrutiny on the viability of their implementation. This makes the House to pass resolutions that are not in line with the existing Government's Agenda and Midterm policies.
5. Some resolutions of the House are not SMART (Specific, Measurable, Achievable, Realistic and Time bound); this poses a problem on their implementation. For example, I will talk about Machakos County Agricultural Fund; it has been difficult because we have a similar fund that is already in existence. If you go near our Stadium, there is the Agricultural development Fund and when that Act was brought in place and adopted it was somehow contradicting the Agricultural development Fund because the functions and operations were more or less the same. So, its implementation was difficult. Secondly Madam Speaker, there is the Senior Citizens Act which was recommending that the county government of Machakos be giving some monthly stipend to the elderly which also contradicts the cash transfer programs which is undertaken by the National Government. If you do that, it will be a double payment which will be questionable by the controller of budget. That is why we are recommending that; before we pass some of these Acts; we need to proper and thorough scrutiny of the same so that it does not contradict existing laws be implemented by the National government.
6. The other thing we notes is, frequent transfers in the County Executive have hindered Committee's business especially where the Chief Officer or the CECM is transferred while a matter is not concluded. For example, when we

started the issue of municipalities, we had CECM Mr. Kilonzo who was later transferred from that department together with all the chief officers who were handling this matter.

It has been quite difficult to pursue the same because we had to go back again and revisit the same. Fortunately, we got the CECM Mheshimiwa Nganga who has been very steadfast and speedy to implement the same and that is where at the moment we can say the gazettelement of the required board has already been put in place.

In the department of roads, we started the issue of *Kazi Mtaani* we started with Mheshimiwa Nganga and in the process of seeking the Regulations; we were hampered by his transfer to the department of lands. Now we had to wait for a new CECM who came in place and when we wrote a letter to seek clarity on the same, she said she had no information about it. So, we had to start again from zero. Currently, the Chief Officer who was in a position to assist us has now been transferred to the department of roads to health services. Now we have to revisit the issue again from zero. The issues of transfers have really been a serious setback to the implementation status of the various House resolutions for this committee.

COMMITTEE RECOMMENDATIONS

Having considered all the submission made by the various departments in relation to the implementation status of the House resolution, the Committee on Implementation recommends as follows:

1. The Assembly should enhance its scrutiny of laws, resolutions and motions to ensure that resolutions passed are implementable.
2. The CECMs under departments of Water, Irrigation, Environment and Climate Change, Roads, Transport and Public Works, Trade, Industry, Tourism and Innovation, Education, Health and Emergency Services, Office of the County Attorney, Devolution and Culture and Tourism should adhere to the Sections of the enacted laws under their respective departments which requires them to formulate Regulations and forward the same to the County Assembly for approval to operationalize them. Madam Speaker to be specific on this, there is an evasive nature in most of the department whenever we seek them to operationalize certain Acts, they have been evasive on the same; saying that regulations should emanate from the Assembly.

We got legal advisory from the legal department of the Assembly and it was very clear that it is the Executive which is supposed to emanate with regulations then brought here to the Assembly for approval. Reason being, we cannot be the manufacturer and the consumer. They must manufacture and we come and consume and they can see results.

We have written a letter to them that they are supposed to formulate these regulations bring them the committee of Delegated Legislation do that they can be approved by this House and brought to the committee of implementation to pursue their implementation.

3. The House and by extension committees should ensure all resolutions passed are Specific, Measurable, Achievable, Realistic and Time bound, to ensure they are implemented and for effective follow up of the same.
4. The County Executive should make the offices a going concern in case of any re arrangements and ensure such adjustment does not hinder the normal operations of the County.

Thank you, Madam Speaker. I want to go to the final part of acknowledgment.

ACKNOWLEDGEMENT

Madam Speaker I wish to acknowledge the office of the Speaker for the support that you gave us through the Office of the Clerk and I want to thank the Hon. Member of the committee for their commitment to ensure this report is done and tell the Hon. Members that it is an elaborate report that is why it has taken that long because we are covering all the resolutions of the House because we did not intent to be bringing here a single report for every resolution, every commitment that has been given to the committee on implementation that is why you have seen that Hon. Members we have covered a lot to elaborate and cover all in one so that we save Hon. Members' time.

We appreciate for their support and wish to commit that the committee on implementation is keen and ready to ensure that all the resolutions that have been passed in this Assembly are listened to, implemented and to the extend where not implemented seek further guidance by this Assembly. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Maitha; a very comprehensive report and well-articulated. Mine is just to say that having listened to this report, very key points come out and one of them is the Regulations. The regulations, there is no Act of parliament can be operationalized without the Regulations so you find that even when we make these laws and Bills are passed and enacted we cannot move without the Regulations because a lot of it, operationalization or the way to progress with the Act is in the Regulations.

When it is lacking then that particular Act of parliament is as useless as it were. That is one item I just want you members as you debate this matter just know it is a hindrance to progress. Now may I invite Members to debate on this matter? Hon. Paul Wambua.

Hon. Paul Wambua (Kibauni, PTP): Thank you, Hon. Speaker, for this chance. I want to congratulate the Chair and his Members for that comprehensive report. We know where we sit and we have heard where we are. Madam Speaker my point is drawn from the issue of Kazi Mtaani which I remember vividly was brought to this Assembly by my Hon. Chair, Hon. Kitaka and we passed that we have our people do the feeder roads which would be less costly and in line with the Governor's call for *pesa mfukoni*.

Madam Speaker, I would urge the committee to follow up the operationalization of that resolution of this House to enable us especially this time when the roads have been very badly damaged by the just ended rains; we operationalize; we have our roads done by our own people who will also get some *pesa mfukoni*. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you very much, Hon. Member. More contributions? Hon. Ndeti.

Hon. Helen Ndeti (Nominated, WDM-K): Thank you, Madam Speaker. Congratulations Mheshimiwa Maitha and your committee for a lengthy report although you were too fast some of us were not able to follow up; you were too fast in your reading. I only took note of a recommendation that I am going to read again, Recommendation No. 3. "The House and by extension committees should ensure all resolutions passed are specific, measurable, achievable,

realistic, time-bound to ensure they are implemented and for effective follow up of the same." I just wanted to find out whether as a House we have been working so hard and passing resolutions that cannot even be implemented because such recommendation exactly states that as Hon. Members we need to look at the resolutions we are passing in this House because there is no need of giving garbage in then we get garbage out. This is because the Executive will never implement so we need to find out what it is that we are not doing right. Thank you.

Hon. Speaker: Thank you very much, Mheshimiwa Ndeti. Mheshimiwa Loyd,

Hon. Loyd Mutua (Nominated, MCCP): Thank you, Madam Speaker. I want to support the report of this committee which I am a member. I would like to read an observation No. 3; let and incomplete responses by department usually need to back and forth communication with the committee thus delaying reporting by the committee to the House. Madam Speaker, this has been too prevalent in many committees. You realize that this report by the implementation Committee had covered a lot; we would have done within a shorter time if the department we were writing to give a response were giving within the period we had asked.

It has really been a hard work dealing with these departments; we do not know whether the formation of the new government or what but it is something that is affecting all committees. In a number of committees that I am, we are having such an issue where we have tried to write to a Chief Officer of that department three times. It should be noted to the Executive a smooth working relationship with Assembly will help also to be able to deliver the services to the people. Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Loyd. Do we have more contributions? Hon. Majority Leader

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. When I look at the observation No. 6, it talks of frequent transfers of Chief Officers and CECM; first of all before I go to that I want to thank the Chair and the committee for job well done. If you look at observation No. 6, I think no CECM or Chief Officer worth their office should give an excuse that I have been transferred here lately that is why I am not able to proceed.

(Applause)

This is because in offices, the communication is very formal and I can guess that every other paperwork is in a file so even if you are transferred how many times you should be able to pick from where your colleague was and of course there are hand over notes and if there is an issue for an Assembly, the one coming in or going out should be able to explain to the incoming there is this matter in the Assembly and also explain the stage. May be they are taking it as an excuse and Mr. Chairman, through the Speaker, please do not accept. Thank you Madam Speaker.

(Applause)

Hon. Speaker: Thank you very much, Hon. Majority Leader, for that observation. Honestly, we all know that for offices of government, there can never be a vacuum at any time

an officer is transferred to another department they do not move with the documentation, they leave them there for the other person to come and continue. So continuation is going on all the time. That should not be an excuse and Members let us not accept such excuses. Hon. Kitaka and you are highly welcome back.

Hon. Francis Kitaka (Ndalani, WDM-K): Thank you, Madam Speaker. I would want to say something about the report and basing on the Kazi Mtaani programme that we passed here, the matters raised on Regulations is something that is of big concern to this House. However, we also have other resolutions that have been made in this House and it worth following them. I want to congratulate the Hon. Chair on Implementation Committee and your team for the good work that you have done to bring us to light to understand so far what has been done and the hindrances that you are encountering as a committee.

Madam Speaker, we have just or we are coming out of rain havoc and our roads are in pathetic state. How I wish if the regulations were in place we would have first used our young men and women to give some relief to our roads and at least earn something. It is important that we follow up as you have directed that the Executive Member concerned with the respective departments should take these matters serious so that we can have Regulations that can be or can aid in operationalization of these resolutions. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kitaka. I have also heard that there was a back and forth of who should be the originator of these Regulations. There are procedures, and we know that it is the Executive to bring us a draft; we look at it and advice and also approve it. So there should be never back and forth. Hon. Maitha, there is no need of back and forth; we know who is supposed to do the Regulations, bring them to us, have a look at them and then approve them for operationalization. We cannot be making laws here only to keep them in the shelves. Thank you, Hon. Members. May I now invite the mover of the motion to come and reply?

(Applause)

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Hon. Members and Madam Speaker and I am quite apologetic to the Members for the long report. The supersonic speed as has been alluded to by Hon. Helen was meant to save Members because if I had gone on a lower speed then I would still be reading the report so I apologize for that. Thank you, Members for the observations you have made and Madam Speaker the Hon. Members of the Implementation Committee who are seated here like Hon. Mercy, Hon. Loyd and my Vice Chair who is not here, we have Mheshimiwa.

Madam Speaker, I can tell you, these Members can attest what we have gone through. It is not ease and Hon. Kitaka can attest to this. When we invited him on the Kazi Mtaani Programme, he saw how we fought so hard with the CECM then in the department of roads Mheshimiwa Nathaniel Nganga on the Regulations up to some point and he can attest to this House he even conceded that the motion is as good as dead but I told him no, we have to proceed so there is this back and forth issue Madam Speaker.

I would wish as a House through the Office of the Majority Leader he speaks with the Governor because our intention is only to serve the residents of Machakos. We have no ill will at all so any resolutions passed by this Assembly are meant specifically to help the people of Machakos. For example, the motion brought by Hon. Kitaka and I thank Hon. Kavyu from

Kinanie and he can attest we even gave a proposal to the Governor that, because the programme had already been proposed by the Hon. Kitaka, we come with a project called *boresha mtaa na mama* and actually I thank God because recently I received a call from various departments being asked to provide five youths which were way too low who will be accorded that opportunity to practice the same.

So Madam Speaker how we wish that if it can be accorded soonest action so that the resolution that was passed as Hon. Don has said regarding the Statement that was sought yesterday, if those can be used immediately, to *boresha mtaa na mama*, that includes opening clogged drainage system, repairing roads, we are going to achieve the slogan for our County Government. All in all, I just want to say on the issue that Hon. Helen has said regarding the SMART observations. Hon. Members, there is no need we pass a law here that will not be implemented and I have given two examples; the Disability Act relating to the old and the aged, it is already in place in the National government.

The Agricultural Development Act is already in in the National government so once we do a duplication of the same in the County Government then it contradicts the National existing laws. So I would like and would request of the Hon. Members here is that whenever an Act comes in the Assembly thorough scrutiny and advisory needs to be done and especially from our legal department such that if we pass any Act, we are sure even the County Government will be able to fund that Act including Regulations so that it can bring results and fruits to the residents of Machakos.

Thank you, Hon. Members. I want to thank you all for the participation and wish to committee the committee is more than willing to implement all the resolutions that the House Assembly is going to pass and where hindrances will come forth then we are going to seek the assistance from the Leadership and from the Office of the Speaker and to the worst even the assistance of this Assembly to summon and wish not to summon any but we are sure they are going to respond to the queries and requirements that the committee would demand from them for ease and effective delivery of services to the people of Machakos County. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Member. Very important sentiments.

(Question put and agreed to)

(Applause)

ALTERATION OF THE CALENDER AND ADJOURNMENT OF THE HOUSE

Hon. Speaker: May I invite Hon. Nicholas Nzioka, leader of Majority to come forward and move the motion

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker.

Hon. Speaker, I wish to move the motion that notwithstanding the resolutions of the Assembly made on 20th February, 2024, that is approval of the Assembly Calendar and 21st February, 2024 that is alteration of Assembly Calendar, and pursuant to Standing Order 25(4) the Assembly resolves that:

- (a) The calendar that is regular sessions for the third session for the third Assembly be altered to adjourn today, Wednesday, 15th May, 2024 and resume its regular sitting on Tuesday, 18th June, 2024 and that the Assembly calendar that is the regular sessions for the third session be altered accordingly.
- (b) All documents received by the Assembly during the short recess for tabling in the House be committed to the respective committees forthwith by the Hon. Speaker and reported to the House on the day the House next sits.

Thank you, Madam Speaker. I call upon the Deputy Majority Leader to second.

Hon. Jackson Ndaka (Tala, WDM-K) seconded.

Hon. Speaker: Thank you, Hon. Members.

(Question proposed)

Hon. Speaker: I now invite Members to debate this motion.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: The House adjourns to Tuesday, 18th June, 2024 at 10.00 a.m. Thank you, Members. See you then Godwilling.

The House rose at 3.37 p.m.