

**REPUBLIC OF KENYA**  
**COUNTY ASSEMBLY OF MACHAKOS**  
**OFFICIAL REPORT**

**Tuesday, 9<sup>th</sup> July, 2024**

The House met at 11.15 a.m.

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

**PRAYERS**

**Hon. Speaker:** Good morning, Hon. Members. You are welcome for today's sitting we can start off. Clerk, proceed.

**PAPER LAID**  
REPORT ON MACHAKOS COUNTY PUBLIC  
AND MARKETS AND STALLS REGULATIONS, 2023

**Hon. Speaker:** May I invite Hon. Kavyu the Chairperson delegated County Legislations Committee to come forward and lay a Paper.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you, Madam Speaker. I am sitting in for Hon. Kavyu. Hon. Speaker, I wish to lay the following Paper on the Table of the Assembly today, Tuesday, 9<sup>th</sup> July, 2024; the Report of Delegated County Legislation Committee on Consideration of Machakos County Public and Markets and Stalls Regulations, 2023. Thank you, Hon. Speaker.

*(The Paper was laid on the Table)*

**Hon. Speaker:** Thank you, Hon. Member. Next order.

**NOTICE OF MOTION**  
REPORT ON MACHAKOS COUNTY PUBLIC  
AND MARKETS AND STALLS REGULATIONS, 2023

**Hon. Speaker:** May I again invite Hon. Francis Kitaka to proceed with the notice of Motion on behalf of Hon. Kavyu.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you, Madam Speaker. Hon. Speaker, pursuant to Standing Order 189B, I wish to give notice of Motion that this Assembly adopts the Report of Delegated County Legislation Committee on consideration of Machakos County Public and Markets and Stalls Regulations, 2023 tabled in the Assembly on 9<sup>th</sup> July, 2024.

**Hon. Speaker:** Thank you very much, Hon. Member. Next Order.

### STATEMENT

BUSINESS FOR THE HOUSE FROM 9<sup>TH</sup> JULY AND 6<sup>TH</sup> AUGUST, 2024

**Hon. Speaker:** May I at this point invite Hon. Nicholas Nzioka, Majority Leader to come forward and make a Statement.

**Hon. Nicholas Nzioka** (Machakos Central, WDM-K): Thank you, Madam Speaker. Hon. Speaker, the House Business Committee met on 8<sup>th</sup> July, 2024 to prioritize business for the House as forwarded by Committees and Hon. Members pursuant to the provisions of the Standing Order 151(6)(d). The Committee balloted business as follows:

Tuesday, 9<sup>th</sup> July, 2024

*Morning at 10.00 a.m.*

- (a) Response to a statement on ownership of Land plot PDP. No. MKS/56/2018/01 by Hon. Daniel Ndwiki
- (b) Report on County Receiver of Revenue for the First and Second Quarters of the Financial Year 2023/2024 continuation of Debate by Hon. Francis Kitaka
- (c) Motion on Alteration of Assembly Calendar and Adjournment of the House by Hon. Nicholas Nzioka.

Tuesday, 6<sup>th</sup> August, 2024

*Morning at 10.00 a.m.*

- (a) Response to a statement sought on matters relating to hawking within Machakos CBD by Hon. Jeremiah Kaloi
- (b) Report of Health and Emergency Services Committee on Budget Implementation for the Department of Health for the first and second quarters of the FY 2023/2024 by Hon. Vincent Mutie.

Thank you, Madam Speaker.

### STATEMENT REPLY

STATUS OF LAND PLOT No. PDP. No. MKS/56/2018/01

**Hon. Speaker:** Thank you very much, Hon. Member. At this point may I also invite Hon. Daniel Ndwiki, the Chairperson Lands and Energy Committee to come forward and respond to a Statement on land issues?

**Hon. Helen Ndeti** (Nominated, WDM-K): Madam Speaker, Mheshimiwa Daniel Ndwiki is engaged in his Ward so he has requested me as a member of his Committee to read this on his behalf.

**Hon. Speaker:** Proceed.

**Hon. Helen Ndeti** (Nominated, WDM-K): Statement response for Hon. Brian Kisila in relation to Assembly land plot No. PDP. No. MKS/56/2018/01. Hon. Speaker, Standing Order 41(2)(c) states that a Member may request for a Statement from the Committee Chairperson

relating to matters under the mandate of the Committee and the Speaker may either appoint a day for the statement or direct that the statement be issued on the same day.

Pursuant to the Standing Order, Hon. Brian Kisila, MCA, Makutano/Mwala Ward, during an Assembly sitting held on 18<sup>th</sup> June, 2024, sought a Statement from the County Assembly Service Board (CASB) in relation to Plot PDP. No. MKS/56/2018/01, which is considered to be a property of County Assembly of Machakos and on which rapid construction was taking place there without the concurrence of the Assembly of Machakos.

In the Statement the said Hon. Member sought information on the following issues:

1. Is the property PDP. No. MKS/56/2018/01 as contained in the allotment letter from the County Coordinator, National Lands Commission still owned by the County Assembly of Machakos?
2. If yes who authorized the construction of a new building currently ongoing on the said property without the approval of the County Assembly?
3. What actions is the CASB undertaking to stop the ongoing construction and plans put in place to safeguard the said property against any further intrusion and what are the timelines?
4. Is there any other property that belongs to the County Assembly of Machakos facing similar predicament and if yes what that plans has the CASB put in place to ensure that the said property is secured back to the County Assembly?

Pursuant to Standing Order 190(5)(a) the Statement was committed to Lands and Energy Committee to inquire and report on Wednesday, 26<sup>th</sup> June, 2024. Members, we were not able to do so because of postponement due to budget process and adjournment of plenary sittings. We were not able to bring this Statement response on the said date.

Hon. Speaker, on the same day of 18<sup>th</sup> June, 2024, the Lands and Energy Committee via a letter REF: MKSCA/PCS/LEC /VOL.1/70 wrote the acting Clerk of County Assembly of Machakos and who is also the Secretary to CASB seeking response on the issues raised in the Statement.

The County Assembly Service Board via a letter Ref: MKSCA/ADM/CASB/VOL.3.4 dated 24<sup>th</sup> June, 2024 and I have the attachment with me, responded on the sought Statement as follows:

Question 1: On whether the parcel of land PDP NO. MKS/56/1028/01 is owned by the Assembly of Machakos.

Hon. Speaker, the mentioned parcel of land, located behind the Assembly office block and which previously housed the fire station and Judicial Service Commission office court rooms, is owned by the County Assembly of Machakos.

This ownership is supported by the following documents

1. An allotment Letter Ref. No. 310147/120 from the National Lands Commission and we have attached copies.
2. Letter of acceptance of allocation of land Commission; see an attachment.
3. Ground Map which is also attached.
4. Receipt of payment of the allotment fees is also attached.

Question 2: On who authorized the ongoing building construction on the said property?

Hon. Speaker, the County Assembly Service Board did not authorize the said construction. The Assembly via a letter Ref. No: MKSCA/ADM/CAL/VOL.I/13 dated 28th May, 2024 with please see attached copy, wrote to the County Secretary urging the County to

cease all development activities on the said land and engage in dialogue to resolve the matter amicably.

Question 3: On the actions the County Assembly Service Board is undertaking to stop the ongoing constructions as well as plans put in place to safeguard the said property against further intrusion.

The Assembly through a letter Ref. No. MKSCA/ADM/CAL/VOL.1/13 dated 28<sup>th</sup> May, 2024 wrote to the County Secretary urging the County to cease all development activities on the said Assembly-owned land and engage in dialogue to resolve the matter amicably. However up to date, no response has been received from the County Executive on the said matter.

Question 4: On whether there is any other property that belongs to the County Assembly of Machakos facing a similar predicament.

Hon. Speaker, there is no other property, owned by the County Assembly, that is facing a similar predicament. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you very much, Hon. Member. May I open the floor for some ventilation on this Statement before I request Hon. Kisila to say whether he is satisfied with the response. Hon. Majority Leader.

**Hon. Nicholas Nzioka** (Machakos Central, WDM-K): Thank you, Madam Speaker. Without disregarding your direction, I thought you would ask the Hon. Kisila to say if he is satisfied because there will be no point of discussing it and then he says he is not satisfied. We can maybe discuss depending on his response. Thank you, Madam Speaker.

**Hon. Speaker:** Well guided, thank you. Hon. Kisila it is your turn now to say whether you are satisfied with this response.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): Madam Speaker, I do not know whether you will give me leeway to justify why my decision to accept or not accept. Personally, I will say Madam Speaker I am not satisfied with the response. I do not know if you will give me permission to explain.

**Hon. Speaker:** Yes I will.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): Madam Speaker, thank you very much for giving me that permission. On question No.1 I am satisfied because it is very straight forward that this property belongs to the County Assembly of Machakos.

On question No. 2, I am not satisfied because the letter which was written by our Clerk to the County Secretary, if you look at it he wrote to the County Secretary urging the County to cease all development activities on the said land and engage in a dialogue to resolve the matter. When somebody has taken your land which belongs to you legally you do not start urging them neither do you start asking for dialogue to resolve the matter amicably.

**Hon. Speaker:** Point of information taken. Proceed.

**Hon. Helen Ndeti** (Nominated, WDM-K): Thank you, Hon. Speaker. As a Member of this Committee before we gave this Statement I think we did enough research and I think the National Government has tried to discourage all government entities from taking each other to court. They are advised to sit down and dialogue and agree on the way forward. The only other way that we can force is either going to court which is being discouraged. I think amicably sitting down might be the only way forward. Thank you.

**Hon. Speaker:** Thank you, Hon. Member. Hon. Kisila.

**Hon. Brian Kisila** (Makutano/Mwala, MCCP): Thank you, Mheshimiwa Helen for that information. I agree with you but land belonging to County Assembly we have a legal process of how we are supposed to safeguard our land. I do not know which government is urging people to resolve matters amicably when they take away public land. If there is a government that is urging people to resolve matters amicably then that is not a government. Madam Speaker on that question I am not satisfied.

No. 3, Madam Speaker, on the action County Assembly Service Board is undertaking to stop the ongoing construction, Madam Speaker, again the answer here is the Clerk wrote again urging the word is urging. He wrote urging the County to cease all development activities in the said Assembly-owned land and engage in dialogue to resolve the matter amicably. However, up to now no response has been received from the County Executive on the matter.

Madam Speaker, meaning that the County Secretary does not see any need to respond to a serious issue. The said construction is still ongoing; people are still there and the house has been roofed. It is obviously that the County Secretary has decided to grab our land by force. That is what it means. If you have been written such a serious letter and he did not respond giving reasons why they took the land and why they are trespassing on our land, it means that they are compulsorily acquiring our land without our authority.

What I was expecting from our Clerk is actually to write a very strong-worded letter to cease operation, cease construction of the said land and vacate with immediate effect failure to which we will seek legal redress. That is what I was expecting from that letter. For Clerk to start looking for dialogue we do not know which dialogue are you dialoging when land belongs to us. Madam Speaker, I am satisfied with that.

Question No. 4, I am happy with it because if there is no other land which has been taken then we are safe. Just to summarize Madam Speaker, I think property belonging to this Assembly, we will go down in history as Hon. Members who allowed land to be taken away. Madam Speaker, today you saw when there were riots you saw most of our staff their vehicles were damaged seriously. Madam Speaker, I think we need to consider how we are going to assist some of them because some of them their vehicles are on third party and they parked outside and that is our parking which is being taken away.

If we give away that land it means Madam Speaker we will go down in history as one of the worst County Assemblies which gave away land without defending it. Madam Speaker, I am asking your indulgence in this matter and that it is taken seriously and reported back with serious actions on us defending our land. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Kisila. Hon. Dee.

**Hon. Dee Kivuva** (Nominated, WDM-K): Thank you, Madam Speaker. I want to stand with my brother Hon. Brian Kisila, Makutano/Mwala MCA who happens to be my Chair Decentralized Units (DU). The County Assembly is not a function of the County Government. We are autonomous and we should be respected as much. I want to say this Madam Speaker and I want to urge you personally as the head of Machakos County Assembly; guard us and we will guard you. Let nobody take us for granted.

I want to quote a Kamba saying which says *yeeyiielela iikwatiaa muvea*. It literally means when this bird which catches our chicken comes, catches the chicken and runs away. If nobody raises a voice, the next day it will land and walk and pick the chicken because nobody is watching. That is where we are going Madam Speaker; do not let anybody including the County Government to take our public land that will be the lowest that this Assembly will have gone.

*(A Hon. Member spoke off the record)*

I do not need the information because I am finalizing. Madam Speaker, you are member of this County Assembly so let us join hands and guard what belongs to us. If worse comes to the worst, we will go and grab their land from the other side so that we will be equal one-one. Thank you.

**Hon. Speaker:** Thank you, Hon. Member. Hon. Deputy Speaker.

**Hon. Stephen Mwanthi** (Ekalakala, WDM-K): Thank you, Madam Speaker. I think we are reading from the same page with all the Members that, the land belongs to the Assembly although I have been monitoring and it is like the construction has since stalled although we expect the County Secretary to make a response to the letter that he got from the Assembly for us to be able to move forward over the same.

Hon. Dee, I just wanted to correct you. Sometimes I do not know why we fear to be informed; you know you were saying the County Assembly is not part of County Government yet the County Assembly is part of the County Government but it is not part of the County Executive and that is the difference. Yes, we belong to Machakos County Government but we are not an arm of the County Executive; that is the correction I wanted to make. Otherwise, I did not have anything bad over my point of information. Thank you, Madam Speaker. I believe that the Assembly owes the Executive a response over this matter, Madam Speaker. Thank you.

**Hon. Speaker:** Thank you very much, Hon. Deputy Speaker. Hon. Majority Leader.

**Hon. Nicholas Nzioka** (Machakos Central, WDM-K): Thank you, Madam Speaker. It is very clear that this land belongs to the County Assembly of Machakos and it is also clear that the County Executive has intruded and illegally constructed a building. I want to put to CASB that they are the custodians of everything that belongs to the County Assembly and that they should move with speed to resolve this matter because there is also some empty space within the same property.

If we do not reverse this, I see a situation where there is going to be more occupation of the same land by unknown people, not only the Executive.

*(Applause)*

It is incumbent on us that this Assembly, we look at it from the point of view that; if the Assembly property can be intruded upon and we keep quiet or we do not resolve, what about other peoples' or institutions' property. I wish we move with speed, invite the relevant departments that need to come and shed light to this matter to the relevant committee so that if we are not able to amicably solve the matter, then the CASB will have an alternative to seek other means of resolving the matter. If we are not able to solve it here then CASB have an alternative to resolve it in another way.

Otherwise, we are part and parcel of the County Government of Machakos but both set of Executive and the Assembly should work in a way that they do not harm each other. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you very much. Hon. Johana, Hon. Douglas and Hon. Aliphonce.

**Hon. Johana Munyao** (Mutituni/Ngelani, MCCC): Thank you, Madam Speaker. I want to appreciate Hon. Kisila for raising such a Statement because partially it will clear us as CASB because the rumors going round where that we had sold that piece of land but, Madam Speaker, I want to say that now that we are able to display that we are the rightful owners of that land and nobody notified us on any intended development, I would urge we assume we do not even know who is doing the construction and we take action as a Board.

*(Applause)*

In the course of pursuing that action, whoever is constructing can now come out to counter whatever legal measures we will have instituted. So, as at now we are not in the know of who is doing that construction; we only know that it is our land and we should move with speed to take the necessary legal action to stop further development. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Member. Hon. Douglas.

**Hon. Douglas Musyoka** (Masii, MCCC): Thank you, Madam Speaker. I wish to respond to the Statement by Hon. Kisila pertaining the aforesaid land. Madam Speaker, you are the father of this Hon. House and maybe I can relate what is happening within the premises of the County Assembly as what should happen in my home. No one irrespective of how we are related even if it is my own brother should come into my compound and start carrying out some development without my consent. It is so unfair when we come to the floor of this House to seek for Statements of some issues happening within our compound even maybe without your knowledge.

Maybe as the Hon. Commissioner has responded, it is the highest time for you as the head of CASB you move fort and stop the ongoing construction. I can confirm to this Hon House that as at now construction works are going on in the parcel of land. I passed by yesterday when we were attending our committees and I saw some guys finishing the roofing. Maybe, Madam Speaker, you move with speed or unless CASB is not in a position the Gen Zs gave us a lesson a couple of weeks ago. If our leadership is not in a position to address issues affecting us, we can

still move out and do some picketing and demonstrate so that the respective authorities can come and respond to us.

It is my proposal you move with speed and stop the ongoing works at the site and if possible because we need a lot of land, I thank God that you were present when the demonstrations were happening outside our premises and you saw the damage that was done to our vehicles and properties belonging to this Assembly. If we had that extra space we could have even allowed our Hon. Members and staff to park vehicles there. We were stranded here seeking where to exit this premises from yet we are still giving out land to outsiders maybe to come and develop whereas we are located as a County Assembly, land is a big challenge and we need to expand.

Madam Speaker, I am not a happy man; when the same thing is happening and as a County Assembly last financial year we allocated a budget to some extra parking and an underground parking. So, I do not need to pass the blame to anybody, but as a leader of this House you need to move with speed and action so that the ongoing construction works are stopped and not only stopped, the entire building is brought down because if someone came to do such a development without even consulting us, why should we allow them to proceed. Do we even need to negotiate with them? We have enough budgets and we need to see who acts and in the next 14 days, you get some people to bring down the entire building then we can negotiate from that point.

Lastly, Madam Speaker---

**Hon. Speaker:** Hon. Douglas, there are procedures laid on how when somebody intrudes in to your land is supposed to do. You cannot just---

**Hon. Douglas Musyoka** (Masii, MCCC): I am just giving proposals Madam Speaker.

**Hon. Speaker:** They are proposals but they---

**Hon. Douglas Musyoka** (Masii, MCCC): Then lastly, Madam Speaker, allow me to finish. If the same thing is happening within our own premises which are the headquarters of this County Assembly, what about our ward offices. I will give an example of Masii ward where it is located. It is just bare. I do not know the demarcation, I do not know where my office land ends and we are still discussing in this Assembly on how to safeguard our property. Where our ward offices are located that is still property of Machakos County Assembly.

If we also do not ensure that our offices are well fenced and demarcated, maybe someone is still going to move around and grab another piece of land and do his personal development. That is my submission Madam Speaker. As Mheshimiwa Kisila has stated and I am not personally satisfied with the response we have received from the Executive.

**Hon. Speaker:** Thank you, Hon. Member. Hon. Aliphonce

**Hon. Aliphonce Mutinda** (Kivaa, MCCC): Thank you Madam Speaker. Since the land has been confirmed it belongs to the County Assembly I want to give a solution once and for all instead of laboring on the same. We just need to extend our perimeter wall behind the premises so that we can acquire the premises. I want to give an example; we had some houses build inside

the Administration Police down there and instead of the government using a lot of energy, they just made a perimeter wall which was taking the houses inside their land.

So, Madam Speaker, let us not waste a lot of energy; we just do a simple construction of a perimeter wall then we shall see whether they will come to our own premises which is inside our compound whereas our business and their business are different. We should not demolish that premise; we should not even stop them from constructing. Let them continue but we do what I have said and that will solve the problem once and for all.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Aliphonce. Very accurate! Members at this point I have noted that Hon. Kisila is not satisfied with the response given by Hon. Kavyu through Hon. Helen Ndeti and I want to guide as follows:

That this statement be sent back to the concerned committee in which they will repeat the work, invite the relevant departments of the Executive to give answers to the question.

Also invite the County Secretary to give us why they have not responded to our letter and any other relevant individuals or departments that should give us answers to the land that has been intruded because in as much as we would want to say we do not know the intruders, Members have had to question the people on site and the contractor has said who has sent them.

So, it is my humble directive that we move with speed and get answers from individuals and I have guided some of the people you may have to invite. Thank you, Hon. Members.

*(Applause)*

### **MOTION**

APPROVAL OF REPORT ON COUNTY RECEIVER OF REVENUE FOR THE  
FIRST AND SECOND QUARTERS OF THE FINANCIAL YEAR 2023/2024

*(Hon. Francis Kitaka on 25.06.2024)*

*(Resumption of Debate interrupted on 25.06.2024)*

**Hon. Speaker:** At this point may I invite Hon. Kitaka, Chairperson, Finance and Revenue Collection Committee to come and present this motion. We had actually done some bit so we are going to continue with the debate. I think the Chairperson was supposed to have highlighted the report. Proceed.

**Hon. Nicholas Nzioka** (Machakos Central, WDM-K): Madam Speaker, I am rising on Standing Order 27 to request extension of time.

**Hon. Speaker:** Proceed.

### **PROCEDURAL MOTION** EXTENSION OF SITTING TIME

**Hon. Nicholas Nzioka** (Machakos Central, WDM-K):

Hon. Speaker, that aware that Standing Order 27(2) provides that the Speaker shall interrupt business at 12.30 p.m., for the morning sitting;

Aware that Standing Order 27(3) provides that the House may resolve to extend its sitting time;

Aware that Standing Order 27(4) requires a motion to extend sitting time to be moved at least 30 minutes before the time appointed for adjournment;

Hon. Speaker, looking at the watch, it is barely five minutes to 12.00, I beg to move the motion that the House resolves to extend its sitting time until the business of the morning sitting is done with.

I call upon Hon. Kitaka to second.

**Hon. Speaker:** Thank you, Hon. Member. Hon. Kitaka.

**Hon. Francis Kitaka** (Ndalani, WDM-K) seconded.

**Hon. Speaker:** Thank you for seconding.

*(Question proposed)*

*(Question put and agreed to)*

You may proceed Hon. Kitaka.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you, Madam Speaker. Hon. Speaker, I will be taking the House through the foreword on page 4 and we go straight to the recommendations, if you allow, because we have the report shared with our Members. Then later I will do the recommendations.

Article 183(3) of the Constitution of Kenya 2010 provides that the County Executive Committee shall provide the County Assembly with full and regular report on matters relating to the County. Further, Article 185(3) of the Constitution of Kenya 2010 provides that a County Assembly, while respecting the principle of the separation of powers, may exercise oversight over the County Executive Committee and any other County Executive organs.

Section 166(1) and (3) of the Public Finance Management (PFM) Act 2012 provides that an accounting officer for a County Government entity shall prepare for each quarter of the financial year in respect of the entity and submit the same to the County Treasury not later than fifteen days at the end of the quarter. In addition, Section 166(4) PFM Act requires the County Treasury to consolidate the quarterly reports and submit them to the County Assembly.

Pursuant to these provisions of the Constitution and the PFM Act, the County Receiver of Revenue for the County Government of Machakos submitted the revenue statements for the period ended 31 December, 2023 on 31st January, 2024. The Financial Statements reveal that the County collected Ksh. 314,815,608.00 against a target of Ksh. 1,217,365,234.00---

**Hon. Speaker:** Point of information taken.

**Hon. Brian Kisila** (Makutano/Mwala, M CCP): Madam Speaker, I do not want this House to be taken for granted that we receive and start discussing reports which are already out of date. The Chairman brought out the issue very well. On Section 166(1) and (3) of Public Finance Management Act provides that accounting officer of the County government shall

prepare each quarter of financial year and submit the same to the Assembly not later than 15 days at the end of every quarter.

Madam Speaker, we are discussing a document which we are now at fourth quarter has ended and now we are discussing as an Assembly a document which is discussing first and second quarter. Of what relevance will it be to us or is it just that we want to tick box that we are discussing a report because personally I feel that even if anything we are going to discuss here has already been taken over by events. So, we can go ahead Madam Speaker, I do not have a problem with it but honestly Madam Speaker we seem to have an issue not just in finance but we seem to have an issue with a lot of other committees that reports are coming a bit late. So, Madam Speaker I feel that this report is overtaken by events. I seek your guidance on the same.

**Hon. Speaker:** Thank you, Hon. Kisila. Hon. Deputy Speaker.

**Hon. Stephen Mwanthi** (Ekalakala, WDM-K): Thank you, Hon. Speaker. I think what Hon. Brian is saying is correct although this is a report that had been read and seconded in this same Assembly, the Chair was just highlighting of a motion that had been tabled and seconded so as a House maybe we need to finish with the debate. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Deputy Speaker. I direct that Hon. Kitaka proceeds with the report, completes it. Issues that Hon. Kisila is raising can be part of the debate; I think that is where it belongs. You may proceed.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you Hon. Speaker, I will continue. The financial statements reveal that the county collected Ksh. 314,815,608.00 against a target of Ksh. 1,217,365,234.00 for the half year under consideration. This amount also represents 7.65 per cent of the total year target of Ksh. 4,600,879,962.00. From this information, it can be observed that own source revenue performed poorly in the first and half of the financial year 2023/24.

The other concerns that can be observed from the report are reporting of nil collections for Level IV and V hospitals. Delaying in swiping of revenue to County Revenue Fund (CRF) account, operation of 17 revenue collection accounts and delay in swiping of funds to CRF in the first half of the financial year 2023/24. Hon. Speaker, the County Executive Committee Member for finance, economic planning, revenue management and ICT needs to put up measures that will lead to increase in own source revenue and such measures include:

1. Deliberate management of human resource.
2. Employment of ICT in revenue collection having clear policies on banking of county revenue and firm dealing with officers who may be diverting county revenue.

I therefore table this report of the Finance and Revenue collection on receiver of revenue for the first and second quarters of the financial year 2023/24 for consideration and adoption. Hon. Speaker, I will be taking the House through the committee observations.

### **OBSERVATIONS**

Based on the analysis of the report and the responses of the Chief Officer, the Committee made the following observations:

- (a) That performance of collection of own source revenue in the first and second quarters of FY 2023/2024 was low. This observation can be corroborated by the following information which the Committee flags out as red alert that the County may not attain its target in this FY.
- (i) Own Source Revenue missed its targets in the first and second quarters of the FY 2023/2024 by collecting Ksh. 186 million and Ksh. 128 million respectively giving a total of Ksh. 314 million. The targets for the first and second quarters of the FY were Ksh. 566 million and Ksh. 650 million respectively giving a total target of Ksh. 1.216 billion. The amount collected represents 7.66 per cent of the total target of the FY which is Ksh. 4.0 billion.
  - (ii) The revenue collection for the first and second quarters of FY 2023/2024 was lower than the collection of the first and second quarters of FY 2022/2023 which had a collection of Ksh. 459 million.
  - (iii) In the FY 2022/2023, the graph of revenue collection from first to second quarter was increasing while in the FY 2023/2024, the graph of revenue collection from the first to second quarter is declining.
- (b) That collection of own source revenue in the first and second quarters of FY 2023/2024 had encountered a number of challenges. The challenges include:
- (i) Aging staff and very new staff whereby close 200 employees were due for retirement this year and more others in the next five years and about 438 new revenue staff employed on contract basis in September, 2023. The aging staff are less productive while the new staff require training thus affecting revenue collection.
  - (ii) Decline in the global economy which has affected construction industry thus reduced collection. In addition, heavy rains in November – December, 2023 affected collections especially in quarries.
  - (iii) Conflict between the Trade department, Revenue department and Inspectorate department in revenue collection. The revenue officers claim that some businesses have been under- valued or over-valued in the invoices. This has caused confusion among traders. The revenue or / and trade officers are using this to solicit for bribes to issue correct invoices or to allow for corrections and payment of revenue. This has contributed to collection of revenue in cash and the emergence of imposters and cartels. Additionally, in some areas, sub-county, ward and village administrators go round collecting revenue, a mandate that is for revenue officers.
- (C) That the management of revenue collected in local banks and operation of the accounts in local banks for revenue collection does not adhere to the Public Finance Management Regulations and advisories by regulatory bodies. This observation is corroborated as follows:
- (i) There were delays in sweeping of funds from KCB and Family banks during the first and second quarters of FY 2023/2024 of up to 63 days for Family bank and 32 days for KCB. This is contrary to regulation 81(2) of PMF (County Governments) Regulations, 2015 which provides that the receivers of revenue shall promptly pay the revenue

- received into CRF as soon as possible and in any case not later than five working days after receipt thereof.
- (ii) The Department in response on delay in sweeping funds indicated that, the CECM had written to KCB and Coop on 5th December, 2023 reminding them of sweeping funds to CRF as per the law but KCB and Family bank seem not to have heeded to instructions as delays in sweeping can be seen in the CRF statement for February, 2024.
  - (iii) The instructions by the CECM to Manager, KCB vide letter ref: MCG/CECM/BANKS/VOL.1/38 dated 18th January, 2024 to sweep funds weekly held at KCB – Machakos branch a/c 1179296206 to Machakos County Health Revenue, Family Bank – Machakos Branch, a/c 073000052806 and the response of the Department dated 29th April, 2024 on remitting of funds to another bank instead of CRF seem to contradict. In the response, the Department informed the Committee that NHIF reimbursement accounts transfers its collection to Machakos County revenue account held at KCB a/c 1140764594.
  - (iv) The Controller of Budget and the Auditor General have pointed out that operation of multiple revenue collection bank accounts is a key contributor to revenue leakage and loss. The County has opened 17 accounts in local banks for revenue collection and this coupled with delays in remitting collected cash to CRF is likely to lead to revenue loss.
  - (v) The Department in response on many bank accounts for collection of OSR informed the Committee that the County Executive had asked KCB and Coop Managers to close some of the accounts in August, 2022 but they have not been closed. In addition, the seven accounts in operation by the County are still many. The Department did not provide a response to the Committee on why building approvals have a bank account at KCB.
  - (vi) On the rationale of having two accounts per bank where one is for collection and the other is a main account for sweeping funds to CRF, the Department seem not to have provided adequate response. The Department, responded that it had opened accounts for each sub – county and major revenue streams for traceability of each of revenue sources. The County closed most of these leaving two per bank where one is for collection of OSR and the other is for sweeping funds to CRF. The issue is why the collecting account cannot sweep funds to CRF?
  - (ix) The reason for operating Family bank as provided by the Department seems not satisfactory since Mlolongo is served by all banks and KCB has the widest network of branches.
  - (viii) The Managers of KCB and Cooperative bank by not obeying instructions issued by authorized County Officers have exposed County funds to risk. The banks need to be in the forefront by ensuring that County funds are safeguarded.

- (D) Lack of commitment and clear strategies for revenue collection by the Department.

The Department is not committed in revenue collection and this can be observed as follows:

- (i) In its response on the strategies put in place to enhance revenue collection, the Department states that it will undertake automation. The Department was allocated funds in this FY 2023/2024 for automation and if it was serious, this should have been the first project to be undertaken to ensure that the target of Ksh. 4.0 billion was attained.
- (ii) This House has reported that inspectorate officers have been accused by revenue officers and physical planners to be a hindrance to revenue collection. The Department proposes to use the same officers in revenue collection and this in itself may not yield much revenue.

### *COMMITTEE RECOMMENDATIONS*

The Committee makes the following recommendations for the adoption by the House: That the Department of Finance, Economic Planning, Revenue Management and II should:

- (i) Enhance the measures and strategies in place to ensure revenue collection target of Ksh. 4.0 billion was attained. This may include strategic deployment of revenue staff. Penalizing those collecting revenue in cash and setting revenue targets for individual revenue clerks.
- (ii) Enhance the 'new' revenue collection mode involving Trade Department by ensuring that the invoices have serial numbers and once filled are digitized and kept electronically and used by revenue officer to receipt revenue. The revenue or trade department or a taskforce of both teams made of senior officers should later inspect whether what was invoiced is what was receipted.
- (iii) Ensure that enforcement for revenue collection is done humanely and follow due process where demand notice for payment is issued. Inspectorate officers should have a written authority from the CECM Finance to enforce payment of revenue and in their course of duty they should be accompanied by revenue officers.
- (iv) Ensure that local revenue is banked with the CRF account weekly as per regulation 81(2) of the PFM (County Governments) Regulations, Act 2015.
- (vi) The CECM to direct the Managers of KCB and Family bank to ensure that own source revenue collected and banked with them is swept to CRF account as per regulation 81(2) of the PFM (County Governments) Regulations, Act 2015. The CECM should report back to the Assembly within 14 days of approval of this report that ha instructions of sweeping funds by KCB and Family bank have been issued. The CECM to strictly adhere to the Regulations.

Hon. Speaker, I wish to thank your office and the Clerks for the assistance that they granted the committee in preparation of this report and also thank the Hon. Members who are my committee members in the Finance and Revenue Committee for the support and for the efforts that they made towards the actualization of this report. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Kitaka. I now open the floor for debate on this matter. Hon. Brian Kisila.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): Thank you, Madam Speaker. I would like to thank the chairman for a very good report. How I wish it was up to date because own source revenue is our biggest task as a County. Madam Speaker, my concern is I was member of the Finance committee in the Second Assembly and the Deputy Speaker was my chairman but the same issues we are raising here are the same issues which we were raising in the second Assembly. There seem to be something between KCB refusing to swipe money immediately.

In fact, we even went further and summoned all the CEOs of KCB to come here and the chairman can confirm on that issue and they committed to do it. So why is money not being swiped. It looks like they trade with our money and then later swipe it. So, I think the recommendation here by the committee is very important and that we need to ensure that this is being acted upon.

Secondly, Madam Speaker, many accounts were also an issue last time. Why are we having so many accounts in our revenue, that opens leakage and you cannot control. Madam Speaker, the last one is on the recommendation that revenue is collected inhumanely and follow the due process. I agree with that but where we are today as a County, it is unfortunate that Makueni which is our neighbour here without any factory with all the resources we have, collected Ksh. 1 billion last financial year. We have got so much potential Madam Speaker; I do not even think we reached Ksh. 2 billion this financial year.

Revenue collection is something which this House needs to take seriously. Personally, in Mwala Sub-County we have gone with the revenue officers and Madam Speaker, we have found fake licenses. Very many fake licenses in Mwala sub-county which are being done by cyber cafes and these staff know very well that these are not genuine licenses and it is unfortunate because we have given finance department so much money to automate and look for ways of making sure we put controls. Where is the gap?

We gave a target of Ksh. 4 billion, now we are just closing at Ksh. 2 billion. We are even doing worse than the previous financial year even with the hospital revenue coming on board. I think Madam Speaker, the Chairman and his committee, you seriously need to put your foot down and demand that revenue collection is taken seriously.

Lastly, I am on record demanding that a very powerful company by the name Simba Cement pays its dues to us which amounts to almost Ksh. 200 million. Madam, Speaker, I did not hear the Chairman even mention that because as a house we gave the CECM 14 days to 30 days to come back to us with a report and he has not done it so where are we heading to and if we do not push revenue collection seriously H.E. the Governor will not be able to achieve a lot of development plans in our County.

Members with the Finance Bill 2024 having been thrown away very serious stringent measures are going to come in place and we are going to have less development and the only place we can go and be able to get fall back to

*(Loud consultations)*

Okay. I think the Serjeant at Arms there they are very notorious they sit down there and they talk so loudly.

**Hon. Speaker:** They should do their work. Serjeant at arms we need silence in the House.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): They are the ones who make noise for us.

**Hon. Speaker:** Where are they even? We only have one. Make sure there is silence. Continue.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): So Madam Speaker, without the finance bill passing the current government will go flat out to cut development money and it is the high time since Bw. Chairman we have given the finance department enough money for automation, it is the high time we see results and I am kindly urging you with your committee not to wait for six months to present a report. I am not blaming you Bw. Chairman but if reports are up to date they will give us a lot of leeway to be able to correct what is there but if every year we are going to say we are falling short of revenue targets and people we know very well Members of staff are pocketing money. We know that, it is a fact. Quarries have not been collecting money and we know we have a potential of Ksh. 4 billion to collect. Why can't we collect?

So, Madam Speaker, I am just saying that personally I am not happy with the revenue measures being put in place and also the way the banks are playing around with us. As an Assembly let us rise to the occasion and oversight the Executive properly so that we can get enough money for development. We have a lot of potential and it is sad our neighbors can collect Ksh. 1 billion when we are just collecting Ksh. 2 billion when we have a potential of Ksh. 4 billion. Thank you, Madam, Speaker.

**Hon. Speaker:** Thank you, Hon. Kisila. That was very key. Hon. Muoki.

**Hon. Muoki wa Musila** (Ndithini, WDM-K): Thank you, Madam Speaker. I have got about two concerns about the report that has just been presented. I am asking myself; when we were targeting Ksh. 1.2 billion and we ended up getting Ksh. 314 million what had informed us that we really can get Ksh. 1.2 billion. We must have sat down and enumerated or mapped where we were going to get this money from. Then we get a quarter of what we had targeted it means either our target was off or we did not do good enough to get to our target so to me that is an area that needs to be taken seriously so that we can get our Ksh. 4 billion target.

The other concern is about the delays in swiping the funds to the respective accounts. I always think when we are opening an account with a bank it is a contract that we are signing and living within the four corners of the contract, I do believe that the banks are taking us for a ride because if you had agreed that this money will swiped into the other account within five days and if I heard it correctly others are taking up to 60 days. If today I borrowed money from the same bank and I delayed by an hour, I am going to be surcharged. Why not then us surcharging them for the delays. Is it that the contracts that we signed were skewed in the favor of the financial institution?

I do know they have their legal department and as lawyers you always write a small writing at the bottom of the page and then you do not want us to read there up to when we go wrong. Now can't we look at the contracts again because they could have been skewed in their favor without us reading between the lines to understand exactly?

They themselves they can delay just swiping financing to the other account for 60 days yet when we borrow from them, an hour is long enough for us to be surcharged. Madam Speaker, I am also not very happy when we hear we are going only a quarter of what we expected because Ksh. 314 million per quarter it means Ksh. 1.2 billion in a year yet we had already factored in our budget Ksh. 4 billion. Now as my colleague Hon. Kisila has just said, how are we going to meet then our development agenda if we are going to go Ksh. 3 billion less than what we had targeted.

Moreover, the National Government may not give us all the money we had budgeted for. Madam Speaker, I am worried about that and I would request the Hon. Chair with his team, please look at the things that need to give us a little bit more money than what we expected and we go for it. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Muoki. Very important insights there! At this point may I invite the mover of the motion to come and reply? Put into consideration the concerns of the Members.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Hon. Speaker, thank you. I want to thank this Hon. House for the contributions that they have made towards this report and more importantly Hon. Kisila who is actually a ranking member and a previous Member of the committee and clearly remembers what they had done previously in the last Assembly. Hon. Speaker, I want to confirm that matters that have been raised of fake licensing, unnumbered invoices and these are issues we have discussed with the department and the CECM in the efforts to ensure that at least we put enough measures to seal the leakage in the revenue collection.

I want to assure this House that personally as the Chair of this committee and my Members we are going to stamp our authority as oversight ad do our work so that at least we achieve the targets that have been set this financial year. Hon. Speaker, I also want to inform this House that we also need to put our Executive that is our departments to task so that they report timely. Some of these reports delay because when you seek a response from a CECM member or a Chief Officer it may take a month before you get a response and it is important that we get their responses before we report to this House.

Hon. Speaker, I am aware that we are in tough times, the country is now taking austerity measures and we understand that our budgets will also be cut and the only place and the only way we can get extra money is through our OSR. So it is important that Hon. Members, the Leadership and also our county electorates and communities ensure that we have a responsibility to ensure that what is due for our County is paid and done and paid timely so that we can build our own County.

Hon. Speaker, the matter raised on Simba Cement, I would want to say that we had a report in this House that was adopted and we would need a response of the CECM of the same whether this had been done because we had also demanded the payment of the arrears of the money and then from there we will be able to respond because right now I would not want to give some false information.

**Hon. Speaker:** Point of information taken.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): Hon. Speaker, you made a ruling and us an Assembly we agreed and we gave the CECM 30 days from the date of the report. Today it is

six months down the line. Honestly, if we do not follow these things then we are wasting time here. We become toothless because how I wish the Chairman is telling me that he has already received the report he is awaiting tabling here. Madam Speaker, when we write to Chief Officers and CECMs, the Standing Orders are very clear; if you do not respond by this date this is what is supposed to be done.

So Madam Speaker, I am not happy with what the Chairman is saying that they are still waiting for response when the Assembly itself made a ruling to that effect. It means then whatever Madam Speaker, you are saying no one listens to it. Why are we here? We need to ask ourselves why we are here if we make those kind of resolutions and no one is following them. Madam Speaker, we are being assumed that is why you can see even letters about our land being taken and no one is responding.

Something needs to be done as a response from this Assembly and also Members we need to take our business seriously. Let us take our business seriously because time is not on our side and the more we continue taking this thing as a joke the more we are going to fail. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Member. Hon. Kitaka, this time you may have to summon the CECM to come and a summon is a very strong document. If you are summoned and you do not turn up there are consequences. Take that into consideration.

**Hon. Francis Kitaka** (Ndalani, WDM-K): Thank you, Madam Speaker. That is well-noted and we will seek the same through the laid down procedure through our Clerk so that we can demand for the response and of course we will make sure that this is done. Hon. Speaker, I will want to thank the House for the contributions. I want to appreciate each and every Member and I thank you for this. Thank you.

**Hon. Speaker:** Thank you, Hon. Kitaka.

*(Question put and agreed to)*

Next order.

#### ALTERATION OF THE CALENDAR AND ADJOURNMENT OF THE HOUSE

**Hon. Speaker:** May I invite Hon. Nicholas Nzioka leader of Majority MCA Machakos Central ward come forward.

**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 (Approval of Assembly Calendar), 21st February, 15th May 2024 and 18th June, 2024 (alternation of the Calendar) and pursuant to Standing Orders 25(4) and 27(3)(c), the Assembly resolves that; the Calendar (Regular Sessions) for the Third Session of the Third Assembly be altered to adjourn its sittings from today Tuesday 9th July, 2024 (Afternoon) and resume its regular sittings on Tuesday, 6th August, 2024; and that the Assembly Calendar (Regular Sessions) for the Third Session be altered accordingly.

I wish to call the Deputy Speaker, to second.

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

**Hon. Stephen Mwanthi** (Ekalakala, WDM-K) seconded.

**Hon. Speaker:** Thank you, Hon. DS.

*(Question proposed)*

I now invite Members to debate this motion. Hon. Brian Kisila.

**Hon. Brian Kisila** (Makutano/Mwala, MCCC): I like the mood to put the question but I just want to remind Members and Majority Leader does not like sometimes me saying; we have 1,125 days to go the next elections and Madam Speaker, I am very happy the Chairman of transport is here. Madam Speaker, as we adjourn the House, seriously I am urging the Chairman of transport committee please the ground is very hot and it is very hot on the basis of poor road network. As we adjourn Bw. Chairman please we urge you please go and make sure that the graders are working and they have fuel otherwise we will adjourn and some of us might not even step on the ground because it is hostile.

Secondly, also there is a mood going round against elected Members from the top to the bottom; let us agree and we need to be seen to be doing something and if we are going on recess it will be good if we are on the ground being seeing to be doing something. I am urging all of us please time is of essence and one thing which will bring us back here is roads. As it is the majority of our graders are not in working condition. During recess see the CECM, the Chief Officer and H.E the Governor. Even if it means the leadership Majority Leader, even if it means we go and see H.E the Governor so that we can make sure the graders are working and have fuel. Otherwise, ladies and gentlemen the days are running fast and we are in for some shock. Thank you.

**Hon. Speaker:** Thank you, Hon. Member. May I ask the mover to come and reply?

**Hon. Nicholas Nzioka** (Machakos Central, WDM-K): Thank you, Madam Speaker. I want to thank the House for quickly reading the mood and seeing the need to go for this short recess but I also remind my brother Hon. Brian Kisila that despite 1,125 days remaining the future is not for us to determine, the future is for God to determine so stop worrying. God will help us with the graders, God will help us with all the resources we need for our people and I pray the next round we will meet here me and you and we also stop counting the days. I wish you well in counting. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Member. I now put the question.

*(Question put and agreed to)*

## ADJOURNMENT

**Hon. Speaker:** The House adjourns to Tuesday 6th August 2024 at 10 am. See you then Members.

The House rose at 12.47 p.m.