

REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY

2ND ASSEMBLY- 2ND SESSION

OFFICIAL REPORT

Tuesday, 24th July 2018

The Assembly met at the Assembly Chamber at 2.30 pm.

[The Deputy Speaker, Hon. Zachary Njeru, in the Chair]

Prayer

QUORUM CALL

(There is quorum as confirmed by the Clerk-at-the-Table)

Speaker: Very well members. Quorum having been achieved, we shall now proceed to the business of the day, today being Tuesday, 24th July 2018 in the 2.30 P.M sitting.
First order.

NOTICE OF MOTION

1. CONSTRUCTION OF THREE MEGA DAMS IN NYANDARUA COUNTY

Speaker: Yes, Member for Kipipiri, Hon. Paul Ngeche.

Hon Paul Ngeche: Thank you, Mr. Speaker. I will do it on behalf of Hon. James Gachomba who has delegated the task to me. Mr. Speaker, I beg to give notice of the following motion:

Whereas the Assembly welcomes the proposal for construction of at least three mega dams in Nyandarua county, the government's bid to mitigate challenges of climate change, serve the increasing population as well as increase the county and country water supply;

Noting the increased need for irrigation and domestic water and whereas Article 69 1A of the constitution requires the state to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources and ensure equitable sharing of the accruing benefits;

Recognising that article 260 of the constitution provides that natural resource include among other things, surface and ground water, forests, biodiversity and genetic resources;

Considering that, natural resources present a unique opportunity to use locally available resources to create regeneration, empowerment and financial benefit for the surrounding communities.

Understanding that the Nyandarua residents and the local community in the water catchment areas are only involved in water conservation yet do not benefit from forest resource including water from the Aberdare is supplied to at least fourteen counties.

Noting that the community can benefit in various forms, the expected minimum standard would be in terms of revenue sharing. Further noting the reported concerns of the residents, such as the need for written agreements to ensure equitable sharing of the accruing benefits including to retrospectively recognise the exploitation of natural resource must adequately benefit and empower communities.

Understanding that article 1 of the constitution requires that an agreement relating to the exploitation of any natural resource in Kenya ought to be ratified by parliament. Therefore, this house has to resolve that the county assembly does petition the Senate to ensure that:

- i. Agreements on the exploitation of water in Sasuswa dam and Konoike dam are ratified by parliament and ensure equitable sharing of the resources with the residents of the area to enable them to accrue benefits for their steadfast and continued conservation of the environment.
- ii. Any agreements on exploitation of the water in Pesi, Kinja and Malewa dams should be ratified by parliament and should ensure equitable sharing of the resource with the local community.
- iii. The Kenya forest service does ensure equitable sharing of the proceeds of forest harvest in all public forests and that the agreements of the harvest should incorporate benefits to accrue to the local communities.

Thank you, Mr. Speaker Sir

Speaker: The notice of that motion is duly given. The House Business Committee shall give further directions on how the same shall be processed.

STATEMENTS

1. STATUS OF E.C.D CENTER AT J.M MEMORIAL HOSPITAL

Speaker: Very well, member for Rurii, Hon. John Mburu Githinji

Hon. Mburu Githinji: Thank you, Mr. Speaker, Sir. I hereby seek a statement from the Chairperson committee on Education, Culture, Gender and Social Services on the addressing the following concern:

The constitution of Kenya 2010 under article 43(1) (f) and article 52(1) (b), provides for the right of every person to educate and the right of every child to free and compulsory education respectively. Further, article 2(1) of the constitution of Kenya on the principles of public finance provides that public resources shall be used in a prudent and responsible way.

Noting this, there is an E.C.D centre at J. M. Memorial Hospital, which is housed in a dilapidated building, which is located within the hospital land. The dilapidated buildings

together with the poor sanitation facilities within the centre possess a great risk to physiological development of the children.

Arising from the foregoing, I seek that the chairperson committee on Education, Culture and Gender Affairs and Social Services provide the following information:

- i. The status of the E.C.D Centre, indicating the number of pupils in the centre, the status of ownership of the land and the infrastructure of the land on which the centre is situated
- ii. The measures being taken to ensure that the centre meets the sanitation requirements for a conducive environment and the quality assurance standards set by the Ministry of Education.

Speaker: Very well, the Statement is duly sought, unless there is anyone with a matter related to this issue and would like it to be addressed by the committee, before I call upon the committee to indicate when they will be able to respond. If there is no one, we can proceed. Vice-chair of the Committee on Education is not there. Is any member of the Education Committee present?

Yes, County Member from Wanjohi, Hon. Jane Nyambura Waweru.

Hon. Jane Nyambura Waweru: Thank you, Mr. Speaker Sir. We are requesting to be given at least one month.

(Consultations)

Speaker: A date shall be fixed within the next one month for the statement to be responded to as requested. I believe that the committee shall ensure that the honourable members are involved when the visit is made to the E.C.D as it is important for a physical visit to be done.

2. STATUS OF THE CONSTRUCTION OF GAKOMA MARKET AND TOILET

Very well, the Leader of the Majority, and the member for Leshau Pondo, Hon. Peter Gathungu Kamau.

Hon. Gathungu Kamau: Thank you, Mr. Speaker Sir. I hereby seek a statement from the chairperson of the committee on Trade, Industrialisation and Cooperative development on the status of the construction of Gwa Kungu Market and Toilet addressing the following concerns:

Aware that part 2 of the 4th schedule to the constitution of Kenya 2010 provides for among other things, trade regulation and development, including the market as part of the devolved functions. Further aware that article 201 of the constitution on principles of public finance provides that public resources shall be used in a prudent and responsible way. Noting that in the previous financial year, the county government has allocated funds for the development of markets and market shades in various parts of the county. There is concern that some of projects have remained incomplete and unoccupied leading to questions on prudence in spending on such projects. Arising from the foregone Mr. Speaker Sir, I seek that the chairperson of the Trade, industrialization and cooperative development does provide the following information:

- i. The number of markets in Nyandarua County in the status of usability of each market.
- ii. A list of all markets constructed in the past five years, amounts allocated and the status of the completion of the market.

- iii. The bill of quantities used in the construction of Gwa Kungu market and toilet and documentation of the progress made which includes but not limited to the amount appropriated, amount spent and amounts paid to the contractors.
- iv. The measures being taken to ensure that the incomplete markets are completed and usable by the public and the expected timelines for the completion of each market.

Thank you, Mr. Speaker.

Speaker: Very well. Any person with any issue related to the points raised that would like to be addressed by the committee?

Yes, deputy speaker and member for Nyakio, Hon. Zachary Mwangi Njeru.

Zachary Mwangi Njeru: Thank you, Mr. Speaker. In addition, I would like the committee to look at the stalled Haraka market. I do understand that the market was constructed under the Economic stimulus program. However, the market was left incomplete and I think the committee should kindly look into this issue considering the viability of this market and the population of the Haraka.

Thank you, Mr. Speaker Sir.

Speaker: Very well, the point is noted in Hansard but the committee should contact the relevant department so that this information from the Deputy Speaker can be taken and put in writing so that it can be submitted to the committee as it deliberates.

Yes, member for Gathanji, Hon. Ngumo Ngamau.

Hon. Ngumo Ngamau: Yes, Thank you, Mr. Speaker. On the same, there is a market in Boiman Township where the construction was never finished. The iron sheets of the structure have even been blown away by the wind and the doors vandalized. Mr. Speaker, I would therefore like to get more information in relation to the progress and completion of that market.

Speaker: In relation to the issue of Boiman market, you should ensure that the relevant department sits with the member so that He can give the full particulars to the committee so that it can be submitted to the member. The committee can submit their report in volumes. This is a small issue; you can go there and know exactly the progress and current status of the market. You can do Haraka market as volume one, Gwa Kungu as Volume two and Boiman market as volume three.

Yes, member for Githioro, Hon. Sambigi Mukuriah.

Hon. Sambigi Mukuriah: Thank you, Mr. Speaker. On the same, there is a market stall in Mawingu that was constructed under the oversight of the first assembly. The market was allocated more money this financial year. Mr. Speaker, I have not had the chance to look at the BQ as they have not been availed to me but the work done to the market does not allow it to be operational. Therefore, Mr. Speaker, I would like to know the specifics of the BQ and the work that was to be undertaken. My understanding according to the contractor is that the clerk of works was asking the contractor to do extra work without revaluing the BQ in writing. I would therefore like to get more information concerning the BQ, Mr. Speaker.

Speaker: Very well. I think we can now move forward, we have taken one, two three four.

Yes, member for Kipipiri, Hon. Paul Ngeche.

Hon. Paul Ngeche: Thank you, Mr. Speaker Sir. The Trade and cooperative committee did a visit to the site in Kipipiri yet the quality of work done there is still shoddy. To add to this, there was a budgetary allocation in the 2017/2018 budget to the site and up to this moment, there are no BQs. We are also not aware if the contractor was paid or not and the people of Kipipiri are concerned about this.

Speaker: That is the fifth concern. I believe the clerk is noting this. We need to get the concerns of the member in writing so that they are added as an addendum to the statement by the majority leader.

Member for central, Hon. Mwangi Maitai.

Hon. Mwangi Maitai: Thank you, Mr. Speaker Sir. As they look into the issue concerning the Leshau Pondo market, I would also request them to look into the issues concerning Ndaragwa market which was allocated some money but the supervisor kept on altering the BQs. The contractor raised some complains and still unable to finish the work. I would therefore like them to visit that market and look into the issue and finish working on Ndaragwa market.

Thank you.

Speaker: Well, This is the third time the issue of Ndaragwa market has come to this assembly and there seems to be no way forward. Let us get the particulars from the member representing Central so that it can also be an addendum to the statement by the majority leader.

Yes, member for Gathaara, Hon. Andrew Kamau.

Hon. Andrew Kamau: Thank you, Mr. Speaker Sir. I would like to request the committee to look into the issues surrounding engineer town toilet and market. The projects have already been allocated to a contractor but no work being done on the ground.

Speaker: Very well. Let us know exactly what are the issues with Engineer toilet and market. The committee on Industrialization should give us verbal reports so that we can send a message to the executive that we will not accommodate any substandard works on the ground. It is also good to note that we are not able to do our oversight work without the BQs. So, let us know when the BQs are available. We expect that the BQs will be attached in each of those eight volumes. We also need to know how much money was allocated to each market, the contractor, how much has already been paid out and what is due to be paid so that we are able to conclusively deal with the issue.

Next order.

(Consultations)

Who is taking up the matter concerning the Trade and industrialisation committee?

The County member for Rurii, Hon. Joseph Kariuki.

Hon. Joseph Kariuki: Thank you, Mr. Speaker. We are requesting for one month to address the statement on the issue of Leshau Pondo. For the other issues raised by the members, we are requesting for two months to fully address them. This is because the committee is currently doing site visits. For example, on Monday, we are doing a site visit to Ndaragwa. The committee will therefore need three months to address all the issues.

Speaker: Members, I think we will need to have this report as one, divided into volumes. Leshau Pondo is volume one, Githioro volume two, Central volume three, Kipipiri volume four, Gathaara volume five or in any particular order. In order to write this report, the sites have to be visited. Places like Leshau Pondo, Central, Ndaragwa and Boiman can be done in one day. I am aware that you will have problems when trying to find these reports from the CECs. We are however not be complaining because we are accommodating them. We are showing them that they are playing the oversight role instead of the other way round. If we were issuing the necessary sanctions these people would be running here with the documents but they are not interested. They can walk over this assembly anyway they want and this is the direction we are taking. Therefore 'Mheshimiwa', with regard to this matter, we need to get the information from the ground in two

weeks and have the CEC trade supply these documents. Each contract has a file. It is just a matter of going to the file, making copies of the BQs and forwarding to the committee. Let us give you one and half months so that you can be able to compile the report wholesomely in eight volumes.

Next order.

3. STATUS OF THE SUD-DIVISION OF LAND AND ISSUANCE OF OWNERSHIP DOCUMENTS OF DIVAI AND MUTHIGA SETTLEMENT SCHEME.

Speaker: Majority leader and member for Leshau Pondo, Hon. Peter Gathungu Kamau.

Hon. Gathungu Kamau: Thank you, Mr. Speaker Sir. I hereby seek a statement from the chairperson committee on Lands, Housing and Physical planning on the status of the subdivision of land and issuance of ownership documents to occupants of Ndivai and Muthiga settlement scheme addressing the following concerns.

Aware that the constitution of Kenya 2010 under article 60 provides for the principle of Land Policy. Key amongst them, equitable access to land and security of land rights and that paragraph eight of part 2 of the fourth schedule of the constitution provides for land survey and mapping as a county function.

Further aware that there are several schemes where land has not been sub-divided and majority of landowners and occupants lack the requisite land ownership title documents. Concerned that the lack of title documents has led to increased poverty less development for the inhabitants since they cannot optimally transact on their land due to lack of land ownership documents.

Arising from the foregone, I seek that the chairperson on the committee on Lands, Physical planning and Housing Development provide the following information:

- i. The number of Settlement schemes in Nyandarua County.
- ii. The status of public utility land and land meant for trading centres and markets in the settlement schemes.
- iii. The status of Ndivai and Muthiga settlement schemes in Leshau Pondo ward.
- iv. The measures being taken by the county government to ensure that Divai settlement scheme is sub-divided especially the part set aside for the trading center to increase the economic activities and development of the area.
- v. The measure take by the county government to ensure that the alleged grabbed land at Muthiga trading center is reclaimed for public use and for the intended purposes.
- vi. The measures to be taken to ensure that the settlement schemes are surveyed, mapped and the rightful owners issued with the title documents in the soonest time possible especially with a priority on Divai and Muthiga settlement scheme.

Thank you, Mr. Speaker Sir.

Speaker: Very well. I think that is comprehensive despite zeroing in on Ndivai and Muthiga settlement scheme. However, I think that from the report that we shall get from the committee on lands shall be more comprehensive. This is because, it captures the whole county, and I know the chairperson is an operator in this area. You will be able to see the right people. Those involved are the Physical Planning office, The Settlement office, and The Director of Survey. You will engage with these people as a committee and come up with a wholesome

document and after that we can follow up on specific reports for specific areas. If there is any issue related to this matter that any member feels can be dealt with together with this issue, then I open up the floor for a few minutes for the same.

Yes, member for Gathanji, Hon. Ngumo Ngamau.

Hon. Ngumo Ngamau: Thank you, Mr. Speaker. I would like to request the Chairman to assist my area on the issue of land grabbing. I have previously talked to the physical planner and He agreed with me that something needs to be done. In Gathanji Township at the moment, there is conflict between the health facility which had five acres and the forest department. There are claims that the forest department took some acres from the health facility. I however, do not understand the matter very well. The clerk of land called me today and informed me that he will be visiting my area to deal with an issue regarding the squatters. It is good that the majority leader has brought up this issue because we can now address these issues together and help me solve the problem of land grabbing. Thank you, Mr. Speaker Sir.

Speaker: I understand the issue in Gathanji, especially Boiman. There is a big problem there and it might not be possible to be addressed together with the issues raised by the majority leader. I think Boiman, member for Gathanji, shall require to give it its own time. We should acknowledge that even today there are people who were given forged allotment letters and are still being refunded their money, slowly by slowly. This is a major issue and we shall require to go the heart of it. We will need to know how many have been compensated so far after the issuance of the fraudulent allotment letters. I am also aware of the issues of Gathanji. Some of those issues have gone to courts as high as the Court of Appeal. There is interlocking of plots within Gathanji area and also plots being allocated to the wrong people who find themselves building on the wrong plots. I think for Gathanji we shall have a statement done so that it covers Gathanji exclusively for us to be able to go deep into it.

With that, we can have from the chair. How long will you require for the statement that is before us?

Hon. Kariuki Muchiri: Thank you, Mr. Speaker. I think two months shall suffice because of the kind of work that the committee is handling. Thank you, Mr. Speaker.

Speaker: Okay, Member for Leshau Pondo. I don't think two months is a long time considering that you want indication of all settlement schemes across the County and also all the trading centres that are within the settlement schemes. You will have to go to the recently updated maps for you to see the settlement schemes that exist. You will also need to get information from the physical planners, surveyors and the county government on how they are planning to conduct the sub-division and allocation of the same or if allocated, how they are going to establish the beacons and showing the same to the owners. I therefore, do not think two months is too much. Within this two months we will require to work hard in order to come up with a comprehensive report.

Next order.

ADJOURNMENT

Very well members, having exhausted the business for this afternoon, we shall now adjourn up to tomorrow Wednesday the 25th day of July 2018 at 9.00 A.M.

(House rose at 3:05 P.M.)