

**REPUBLIC OF KENYA**  
**NYANDARUA COUNTY ASSEMBLY**

2<sup>ND</sup> ASSEMBLY- 2<sup>ND</sup> SESSION

**OFFICIAL REPORT**

Thursday 22<sup>nd</sup> February, 2018

*The Assembly met at the Assembly Chamber at 2.30 pm.*

*[The Speaker (Hon. Ndegwa Wahome) in the Chair]*

Prayer

**QUORUM CALL AT THE COMMENCEMENT OF THE SITTING**

*(The clerk-at-the-table confirms that there is quorum)*

**Speaker:** Very well; Hon. Members, quorum having been recognized, we can now proceed with the business for this afternoon sitting.

First order.

**PAPER LAID**

DEPARTMENTAL BUDGET IMPLEMENTATION FOR THE FY 2014/2015 TO FY  
2016/2017 AND THE STATUS OF COUNTY MACHINERY

*(Hon. Esther Nyambura rises on behalf of Hon. Mbogo Mburu)*

I understand that the Vice Chair and the County Member from Karau, Hon. Esther Nyambura will be handling that business.

**Hon. Esther Nyambura:** Thank you Mr Speaker. On behalf of the Chair, I beg to present the First Preliminary Report of the Committee on Roads, Transport, Energy and Public Works on Departmental Budget Implementation for the FY 2014/2015 to FY 2016/2017 and the Status of County Machinery. I will begin with Preface.

Preface

Mr Speaker, the Constitution of Kenya 2010 specifies the functions of the National government and the County governments on matters of Transport, Energy and Public works, the National government deals with transport standards for the construction and maintenance of roads by Counties.

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On the other hand, the Fourth schedule stipulates that the function of the County government in the sector includes;

- (a) County roads
- (b) Street lighting
- (c) Traffic and parking and
- (d) Public road transport

In order to realize the latter, the County government plans to offer services to the electorate through the infrastructure sector as one of the major sectors, it consists of among others, the Transport, Energy and Public Works Department. Over the years the First County government had prioritized the sector which took the lion share of the resources.

Article 186 (1) of the Constitution of Kenya 2010 and Section 76 of the County Government Act No. 17 of 2012 expounds the devolved infrastructural functions in the County. The department comprises of the transport, public works and energy functions with the following vision and mission.

**Vision:**

To achieve and sustain excellence in the construction and maintenance of roads, building and other public works.

**Mission:**

To facilitate provision of efficient, affordable and reliable infrastructure for sustainable socio- economic growth and development through modernization, rehabilitation and effective management of all infrastructural facilities.

In broad the strategic objectives include the following:

- (i) To develop and manage an effective, efficient and secure road network.
- (ii) To enhance an efficient and effective transport system for rapid and sustained development in the county.
- (iii) To provide an efficient and effective fire emergency response system.
- (iv) To develop and maintain Government/Public/Institutional buildings
- (v) To develop and maintain Public Civil Works, and
- (vi) To provide access to areas with difficult terrain

The above notwithstanding, the department plans to spearhead the following:

a) Transport Development

Its objectives are, to develop transport infrastructure, to improve connectivity and access, development and maintenance of county roads, bridges and drainage works and improvement of bus parks, and development of boda boda transport.

b) Energy development

The objectives are, to provide quality lighting in order to ensure continuous lighting throughout the County.

c) Public works

The objectives are, to ensure safe and up to standard infrastructure including project design, documentation and construction supervision services in regard to flagship/transformational projects. Development and maintenance of county roads, bridges and drainage works, fire emergency response services and disaster management command centre.

d) Emergency Response and Preparedness

The objective is to safeguard life and property effectively and mitigation measures in case of disaster incidence.

Composition and Mandate of the Committee

Mr. Speaker, Sir, pursuant to Standing Order No. 195, Transport, Energy and Public works Committee is a sectoral Committee established with specific mandates as spelled out in the First schedule of the Standing Orders.

The Committee is comprised the following honourable members:

1. Hon Simon Mbogo Mburu	-Chairman
2. Hon Esther Nyambura Mwangi	-V/Chairperson
3. Hon Margaret Ireri	-Member
4. Hon Sammy Ngumo Ngamau	- Member
5. Hon Gabriel Gathure Wambui	-Member
6. Hon Paul Ngeche Wambaire	-Member
7. Hon Samuel Rimui Kaiyani	-Member
8. Hon Justus Gaita Wagura	-Member
9. Hon Zachary Njeru Mwangi	-Member

The Committee is mandated to:

- i) Investigate, inquire into, and report on all matters relating to the mandates, management, activities, administration, operations and estimates of the assigned departments;
- ii) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- iii) Study and review all county legislation referred to it;
- iv) Study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;
- v) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the Assembly;
- vi) Vet and report on all appointments where the Constitution or any law requires the Assembly to approve; and
- vii) Make reports and recommendations to the Assembly as often as possible, including recommendation of proposed legislation.

### Acknowledgement

Mr Speaker, am grateful to the Members of this Assembly for their immense support and entrusting me with the opportunity to serve the County in the capacity of the Chairperson of the Committee on Transport, Energy and Public works. I also wish to thank the Committee members for their commitment and support in the discharge of the Committee's mandate.

The Office of the Clerk has also been very supportive in offering administrative services as well as technical advice without which the committee cannot succeed. Lastly but not least, I thank the Office of the Speaker for allowing the Committee to pursue the business at hand freely and also giving the authorization to work while outside the County compiling of this preliminary report. We look forward to being supported as we pursue the matter further and endeavour to carry out our mandate as a Committee.

### Introduction

Mr. Speaker, the primary role as County Assembly as defined in the constitution and our standing orders is the oversight role over the executive to ensure delivery of services to our electorate. Monitoring of the budget implementation is therefore very key in ensuring that funds allocated to the respective departments are utilized both effectively and efficiently and ensure the electorate gets the value for their money spent.

This being the Second Committee on Roads, Energy and Public works since the inception of the devolved Governments, the Committee thought it prudent to embark on the review of the first governments expenditure on the Energy, public works and Transport in order to identify any problems or bottlenecks that could have affected the budget implementation and come up with remedial measures for future implementation. Thus, this will form the basis for the committee's future activities while carrying out the oversight role.

### Committee Proceedings

To accomplish the mission, the Committee wrote a letter to the Chief Officer dated 9<sup>th</sup> October 2017, requesting for the implementation reports since the inception of devolution which we compared with the actual allocations in the approved budgets to see if any discrepancies exist. The committee later supplied copies of the Departments Implementation reports to all elected members seeking their input and complaints if any of the projects listed in the report. The office of the Clerk and the Chairman has not received any input so far concerning the implementation reports provided to the Wards representative.

The committee also invited the newly appointed CEC member in charge of Roads, Public Works, Energy and Transport Eng. Stephen Mbugua through a letter dated 30/11/2017. The CECM honoured the invitation and responded to issues raised in the letter in a meeting held on the 7<sup>th</sup> December 2017 which are more of forward-looking noting that he was new in the office.

Correspondence from the Department submitted has been the base for the committee's proceedings and consideration.

### Scrutiny of the correspondences

The project implementation status for the period 2013-2017

Mr. Speaker, the Committee received two documents from the department, that is, the status of county Machinery and programmes/projects implementation status per ward in the whole/county.

The committee held sittings within the assembly and had planned to conduct a site visit in order to ascertain the status of the machinery in the County and those that are stalled in the neighboring Counties. This planned visit however did not take place as planned. The committee is scheduled to carry out the visit soon.

The committee sought leave in order to travel and consider the correspondences and implementation reports and make a report to the House for consideration. Upon approval, the Committee travelled to Topcliff Lodge, Nakuru from the 15<sup>th</sup> day to 17<sup>th</sup> day of February 2018, where it held its sittings.

#### Preliminary Committee Findings

Mr Speaker, upon perusal of the said implementation reports, the Committee noted the following as the salient issues.

i. Pending Bills

The committee members were concerned of the continuous escalation of the pending bills in the Department. It is considered that variations in the expenditure from what has been allocated in the yearly budgets to the department was likely to be the cause for the pending bills. The committee decided to have a sitting with the Departments CEC member for the department, get submissions from the department and later make site visits to the specific areas and examine whether the accruals and debts are justifiable.

ii. Inability to identify the implemented projects

The committee perused the report and there was a general concern and doubts of the existence of all the listed projects. The reports demonstrated that some of the projects said to have been already done in the wards cannot be identified on the ground. Members therefore were not convinced that all the projects said to have been done exist.

iii. Allocation for payment of pending bills in the County budget

The Committee noted that the department receives the highest allocation of funds. It was also observed that there is a trend of accumulated pending bills in existence over the years. Notably, the First Assembly's Roads, Public Works and Transport Committee compiled a report in response to a Petition by the Nyandarua Contractors Association. Upon consideration by the House, it was resolved that the genuine Contractors as identified in a report be paid.

The County Assembly passed a resolution and in the Financial year 2016/2017 an amount of Kshs.230 million was allocated in the budget for payment of the pending bills.

*(Hon. Rimui Kaiyani rises on a point of order)*

**Speaker:** What is it the Member for Githabai, Hon. Rimui Kaiyani?

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**Hon. Rimui Kaiyani:** Mr Speaker, it may not have caught your attention but if you look at my neighbour to the right, you would probably declare him a stanger in the House. Thank you Mr Speaker.

**Speaker:** The Member for Gathaara comply appropriately.

*(Hon. Samuel Njatha exits the Chamber)*

*(Hon. Wambugu King'ori rises on a point of order)*

What is it the Member for North Kinangop, Hon. Wambugu King'ori?

**Hon. Wambugu King'ori:** Mr Speaker, on the same note I seek your guidance on whether the Member for Kaimbaga has put on the attire that befits this House.

**Speaker:** I was waiting for a Member to raise that issue regarding the Member for Kaimbaga. Actually, what the Member for Kaimbaga is putting on with regard to definition of parliamentary dressing is not a jacket. The type of the trousers he is in does not comply with what is stipulated under parliamentary dress code. I directed the Members to look at a comprehensive ruling I made concerning parliamentary dress code. In the ruling, I cited commonwealt practices. I cited incidents cutting across the commonwealth. So the Member for Kaimbaga consider your dressing code and take your leave.

*(Hon. Gathure Wambui exits the House)*

Proceed the County Member from Karau.

**Hon. Esther Nyambura:** Thank you Mr Speaker. I will pick from exactly where I left. The expenditure of the amount was expected to be definite since the report had identified the contractors whose documentary evidence was availed. Its not known in particular who are the beneficiarries of the huge allocation. The Committee would like to follow up the matter in order to know how effectively the department has been absorbing the funds allocated in the budget.

iv. Inequality in allocation of projects in the department

It is evident that over the medium term, the share of projects in respect to the wards is not even, some wards increasingly benefitted with many projects or huge allocations of funds. In additon, money allocated to various projects in the budget were reallocated to other projects in different wards during the Supplementary budgets and therefore isolating some areas.

This has brought about inequality in roads development in some wards. The committee hopes to seek clarification with the implementers in order to know why it was not possible to implement the projects as planned and funded in the budget in repective wards.

v. Maintenance of county machinery

The committee was indeed concerned of the departmental fleet management policy, the maintenance of the machinery and vehicles owned by the department. The Committee observed that the report submitted indicates that the county has a number of grounded vehicles, some of which requires a lot of money to repair. The maintenance charges shown gives exorbitant figures and unfortunately some of the machineries are very old and someare stalled outside the County.

The department has made the recommendation to bond the machineries. This Committee resolved that before a recommendation is made to bond the old machineries, it is

necessary that the machines are identified from their locations, confirmed to be in existence and their status is assessed.

- vi. Funding of Programmes as per the functions of the county government in accordance with the fourth schedule of the Constitution.

The committee members were passionate about the need to allocate funds in the County Budget for energy reticulation. This is important in particular for County planning and to spur development all over the County. The committee hopes to stir the executive to plan for this function and seek funding to ensure the electorate access transformers and affordable Electricity.

### Conclusion

Mr. Speaker, in view of the shortcomings observed above, the Committee appreciates that a lot of information and data is yet to be obtained and more evidence adduced. It is worth noting that the budgets as considered and approved by the Assembly has continuously funded projects all over the County. The Committee is vigilant and wants to follow up the implementation plans especially for the FY2017-2018 especially in the documentation of the projects designs and Bills of Quantities used in their implementation. The Committee will also disaggregate the projects implemented in each ward and form a basis for seeking equalization funds for the disadvantaged wards.

Its important that the Honourable members refer to the reports forwarded to them and assist the Committee to identify areas of great concern in the department that needs further scrutiny.

Mr Speaker, by this preliminary report, the Committee hereby seeks leave to be allowed more time to look into the grey areas as identified, conduct site visits to the projects that are in doubt and seek more information from the executive on the accumulation and payment of the pending bills, and ascertain the existence of the said projects as per the implementation reports. Upon execution of the latter, the Committee will compile a comprehensive report with binding recommendations which will be tabled in this Honorable House for adoption.

Thank you Mr. Speaker, Sir.

**Speaker:** Very well. Hon. Members, there are two components of the report. The Committee has indicated the reason it did not bring the full report. It has further sought more time in the preliminary report to compile the comprehensive report. That means that the business slotted under Order No. 6 (i) will not be transacted because what was brought by the Committee was not the comprehensive report and therefore does not attract the necessity of a motion. Although the petition on the pending bills was withdrawn, the issue of pending bills has never been conclusively attended to by our county government.

Hon. Members, you will appreciate that the supplementary budget never took care of the pending bills. So the sword of damocles hangs over our heads. We represent the people and the same people are crying for our intervention. The committee therefore must come up with a way forward in the final report, whether there is a petition or not. The issue of the pending bills has not been addressed because of lack of budget to cater for the same. As a tradition, after a preliminary report has been presented, Members are allowed time to make their comments for consideration in the final report by the relevant committee.

*(No Member rises)*

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Well, there being no comment and there being no objection to the committee's request for leave to be given more time to compile a comprehensive report, I would request the Vice Chair to state what time the committee requires to compile the comprehensive report.

**Hon. Esther Nyambura:** Mr Speaker, one month will be enough.

**Speaker:** Hon. Members, from what I have seen in the preliminary report, the committee has a lot to do. One month is therefore too much and we shall grant the leave. The Office of the Clerk should note that the House shall give priority to that report on expiry of one month.

Next order.

## STATEMENTS

### 1. PUBLIC UTILITY LAND IN NDUNYU NJERU

*(Hon. Wambugu King'ori rises)*

Yes the Member for North Kinangop, Hon. Wambugu King'ori.

**Hon. Wambugu King'ori:** Mr Speaker, I rise pursuant to Standing Order No. 45 (2) (c) on statement hour to request a statement on public utility land in Ndunyu Njeru.

**Speaker:** Hon. Members, the Member for North Kinangop had approached the Chair at least one hour before the sitting to raise a concern about a statement he had requested in the First Assembly, which had not been issued. I agreed that I would allow him time to reintroduce the statement request in the House for the Chair to give fresh directions on the same. Proceed the Member for North Kinangop.

**Hon. Wambugu Kingo'ri:** Thank you Mr Speaker. I beg to request for a statement from the Chairperson of the Committee on Lands, Housing and Physical Planning on the following issues regarding the status of public utility land in Ndunyu Njeru Township, Kinangop Sub County;

1. If there is any land that had previously been demarcated for:
  - a) The Ministry of Public Works,
  - b) A depot for the Kenya Cooperative Creameries,
  - c) A processing plant for the Kenya Cooperative Creameries, and
  - d) A public cemetery.
2. What is the status of ownership of the land demarcated for the above listed public utilities?
3. Whether concerns that have been raised that the said land has been allocated to private individuals, if so by whom and when did the said allocation occur.
4. Whether there was any public participation in the course of the aforementioned allocation.

Mr Speaker, I requested the statement in the First Assembly on 10<sup>th</sup> March, 2016. The Speaker gave the chairperson of the Committee on Lands, Housing and Physical Planning forty five days to issue the statement. In view of this, I expect the matter will be dealt with expeditiously.

**Speaker:** Hon. Members, the statement was requested on 10<sup>th</sup> March, 2016. It was supposed to be issued within forty five days, but that never happened. Then the chairperson of

the Committee on Lands, Housing and Physical Planning was Hon. Kariuki Muchiri. We shall give the Committee on Lands, Housing and Physical Planning another forty five days. We agreed to fight the menace of public land grabbing in this county. This is a dragon that we have to slay; we have no option.

The statement is very diplomatic. We know there was parcels designated for the Ministry of Public Works, KCC, processing plant and cemetery. But the whole of the land in question was demarcated and assigned to individuals. We have to stop this; this County is not dying with us. There is a future for our children. For this reason we have to stamp our authority and put our foot down. So the Committee on Lands, Housing and Physical Planning should bring into this House a comprehensive report on the issue within forty five days. Is that okay?

**Hon. Jacinta Githae:** Yes Mr Speaker.

**Speaker:** Yes the Member for Githabai, Hon. Rimui Kaiyani.

## 2. KENYA YOUTH INTERCOUNTY SPORTS ASSOCIATION (KYISA), 2018

**Hon. Rimui Kaiyani:** Thank you Mr Speaker. I rise on Standing Order No. 44 to issue for a general statement.

Mr Speaker, Sir, I rise to issue a general statement pursuant to Standing Order No. 44. The Office of the Clerk received a letter from the County Executive Committee Member for Youth, Sports and Arts concerning the Kenya Youth Intercounty Sports Association (KYISA), 2018 to be held in Makueni County from 15<sup>th</sup> to 22<sup>nd</sup> April, 2018. The CECM states that on Monday, the 26<sup>th</sup> day of February, 2018 there will be a meeting of all the sub county administrators and wards administrators with the department of sports at Aberdares Resort to discuss the KYISA games and Youth Empowerment Programme, 2018. On Tuesday, the 22<sup>nd</sup> day of February, 2018 the sub county and ward administrators will be meeting with sports stakeholders will be meeting at the sub county headquarters in all the sub counties as follows:

- i) Kinangop South – Njabini
- ii) Kinngop North – Engineer
- iii) Kipipiri Sub County – Kipipiri
- iv) Ol Kalou Sub County – Ol Kalou
- v) Ol Joro Orok Sub County – Ndaragwa
- vi) Ndaragwa Sub County – Ndaragwa

The agenda of the meeting will be;

1. Prepare for ward level games
2. Draw ward level fixtures
3. Identify youth groups

In addition to the above information, the CECM requires all the elected Members of County Assembly to avail one key sportsperson in football who is conversant with the rules of the game and who has passion for sports, by 4 p.m. tomorrow, Friday 23<sup>rd</sup> February, 2018 to the Office of the Clerk or through the official WhatsApp page.

Mr Speaker, the Department of Youth, Sports and Arts looks forward to spurring sports passions right from the village level. To this end we are requesting each Member to submit a name of a stakeholder that has qualities mentioned above to the Office of the Clerk or through the official WhatsApp page. It is important that this is done latest tomorrow. Kindly

take this seriously because we do not want any ward to be left behind and we would not wish issues to arise later.

Thank you Mr Speaker, Sir.

*(Hon. Wanjiru Ndirangu rises on a point of order)*

**Speaker:** What is it the County Member from Kiriita, Hon. Wanjiru Ndirangu?

**Hon. Wanjiru Ndirangu:** Thank you Mr Speaker. I would like the Member for Githabai to clarify whether the sportsperson to be identified should be a man or even a woman can be identified.

**Speaker:** Yes, the Member for Githabai.

**Hon. Rimui Kaiyani:** The Statement says 'sportsperson'. That in itself is gender sensitive. Thank you Mr Speaker, Sir.

**Hon. Wanjiru Ndirangu:** Well informed.

**Speaker:** I am hoping that as we conclude today's plenary we should identify one of us (we know ourselves) who can be the face of the Assembly and one who can make our presence felt in the organisation of the sports at the grassroots.

Next order.

## MOTIONS

### (MOTION WITHDRAWN)

#### 1. WARD BURSARY COMMITTEES

Yes, the Leader of the Majority Party and the Member for Leshau Pondo, Hon. Gathungu Kamau.

**Hon. Gathungu Kamau:** Thank you Mr Speaker. After consultation with the Chairperson of the Committee on Education, Culture, Labour and Social Services, I wish to withdraw the motion (on constitution of ward bursary committees). The said chairperson revealed to me that their committee is handling the issues addressed in the motion and I would request that we do further consultations for the good of the Members and the House.

**Speaker:** Hon. Members, although the Member for Leshau Pondo did not quote the provisions, a Member who has already given notice of a motion is allowed to withdraw the same under Standing Order 53, which reads:

A notice of motion may be withdrawn by the Member who gave the notice, but notice of the same motion may be given again either by the same or by any other Member.

Though the motion has been withdrawn based on the agreement between the Leader of Majority and the Committee on Education, Culture, Labour and Social Services, the same can be reintroduced in the House. Notice of the same can be given by the same Member or any other Member following consultations. So, leave granted.

Next order.

#### 1. ADOPTION OF THE REPORT ON THE ASSUMPTION OF THE OFFICE OF THE GOVERNOR

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*(Hon. Salome Gathoni rises on behalf of Hon. Justus Gaita)*

I am well informed that the Vice Chair of the Committee on Legal Affairs, Labour and Intergovernmental Relations and Coordination and the County Member from Magumu shall be moving the motion.

**Hon. Salome Gathoni:** Mr Speaker, Sir, I beg to move the following motion:

That this House does adopt the Report of the Committee on Legal Affairs, Labour and Intergovernmental Relations and Coordination on Consideration of the Report on the Assumption of the Office of the Governor as a report of this House and the recommendations therein as resolutions of this House.

#### Summary of Key Findings

Mr. Speaker, Sir, The Report of The Committee on Assumption of the Office of the Governor was tabled in the County assembly on the 16<sup>th</sup> day of November 2017 and consequently committed to the committee on Intergovernmental Relations and coordination, ICT and E-Government committee. The said report was a requirement established in the Kenya gazette notice outlining the procedures to be taken during the transfer of the power after the pronouncement of the governor elect after the August 8 general elections. The County's financial status, staff establishment, asset register and liability inventory formed part of the transferred responsibility and hence was included in the said report for general information and for the new government's conversion.

Mr Speaker, Compliance with the regulations set under the gazette notice was the first consideration done by my committee while scrutinizing the documents. The activities of the committee constituted for the purpose, the processes, and the actual swearing in ceremony of the Governor were the focus, which the committee keenly considered while coming up with this report.

It was generally observed that the committee on Assumption of office of the Governor conducted itself as per expectation despite the bonding challenges and delivered their mandate as specified in the gazette notice. However, the actual swearing in event was faced with challenges which ranges from poor communication equipment and communication lapses to passive insubordination of the outgoing governor by the committee chair during the transfer of the instruments of power to the incoming Governor. The guidelines given in the Kenya gazette had clearly indicated that "where the outgoing governor is not present during the inauguration, the County Symbols shall be handed over to the Governor-elect by the presiding judge or the Deputy registrar as the case might be". Protocol lapses and inadequate information flow was therefore very evident during the inauguration ceremony.

#### Acknowledgement

Mr. Speaker, I wish to express my appreciation to this honourable house for allowing my committee to work on this report. It was an enormous task reading the huge documents, but the committee was able to pick out the essential information so as to check on compliance and also the success of the transition process during the power handover. I also wish to thank my committee members for their insight and dedication while working on the document and during the committee sittings to peruse the documents. The *ad hoc* committee, which oversaw successful transition of power and the swearing in ceremony for the Governor, accomplished their mandate and deserve our gratitude. I cannot forget to thank the office of the Clerk for

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facilitating the committee during the report writing exercise and offering technical support to the committee. Last but not least, I take this opportunity to thank your office for entrusting my committee with the responsibility and words of encouragement, in pursuit of its mandate. To all members thank you and God bless you.

Mr. Speaker, Before the general elections were held on 8<sup>th</sup> August 2017, the Cabinet secretary of the ministry of devolution and planning, through a gazette notice, Kenya gazette Vol.CXIX-No.88, gazette notice No. 6409 of 7<sup>th</sup> July 2017 set forth the regulations to be followed all over the Country to ensure smooth transition of Governors' office. This regulations provided a framework in the form of the *ad hoc* committee on assumption of the office of the Governor to spearhead the transition process.

Nyandarua County Assumption of office of the Governor committee was constituted as per the gazette notice to discharge its mandate as articulated. The committee drew its membership from the County government of Nyandarua, the County Assembly of Nyandarua, an official from Intergovernmental technical committee and the office of the County Commissioner. Other staff were also incorporated to facilitate delivery of the committee's mandate in its secretariat. After the actual transition of office of the Governor, the gazette notice had indicated clearly that the committee was expected to prepare and submit a report on its affairs to the County Assembly and to the cabinet secretary responsible for Intergovernmental Relations. This was complied with as confirmed in submission of their report in the County Assembly on 21<sup>st</sup> day of September 2017 which is within the thirty days window period allowed in the gazette notice.

The Nyandarua County committee was chaired by Mr. Daniel Irungu Mwangi (Ag. County Secretary at the time).The report by the committee and in line with the guidelines in the Kenya gazette included:

1. The financial report of the committee
2. A description of the activities of the committee and
3. Other information relating to its functions and County data including the asset register, development projects, financial reports, the pending bills, pending legal cases and the staff establishment per department.

### PREFACE

Mr. Speaker, The committee on Legal Affairs, Labour and Intergovernmental Relation and Coordination is a sectoral committee established under the standing order 195 whose chief role is to oversight the executive arm of the government in matters of legal affairs, labour and inter-governmental relations, and coordination. Among the key areas of concern to the committee is the implementation of the Intergovernmental Relations Act, which establishes mechanisms for relations between National and County governments and for the resolution of intergovernmental disputes pursuant to Articles 6 and 189 of the Constitution.

### Committee mandate

The committees mandate is derived from the schedule 1 to the Standing Orders read together with Standing Order 195 (5). The mandate includes, inter alia;

1. To investigate, inquire into, and report on all matters relating to Justice , Labour relations, intergovernmental Relations between the County and other counties and with the National Government
2. To study the programme and policy objectives of County Government in view of Legality, industrial relations, inter-relations with other Counties and the National government
3. To study and review all County legislation referred to the committee;
4. To study, assess and analyze the relative success of the County Government as measured by the results obtained as compared with their stated objectives;
5. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary; and as may be referred to the committee by the Assembly.
6. To vet and report on all appointments where the constitution or any law requires the Assembly to approve;
7. Make reports and recommendations to the Assembly as often as possible, including recommendation of proposed legislation.

### Committee membership

Mr. Speaker, the committee on Legal Affairs, Labour and Intergovernmental relations and Coordination is composed of the following members;

1. Hon Wagura Justus Gaita	Chairman
2. Hon Kamau Salome Gathoni	V/Chair
3. Hon Kaiyani Samuel Rimui	Member
4. Hon Muhoho Esther Wanjiku	Member
5. Hon Margret N. Ndung'u	Member
6. Hon Njeru Zachary Mwangi	Member
7. Hon Karanja Reuben Gitau	Member
8. Hon Mwangi Esther Nyambura	Member
9. Hon Wambui John Kieru	Member
10. Hon James Kiiru Gachomba	Member
11. Hon J. Ndegwa Wahome	Member(ex-official)

### INTRODUCTION

#### Background

Mr. Speaker, the report of the committee on Assumption of the Governor's office was constituted by the County secretary on 11<sup>th</sup> July 2017 following the Kenya gazette notice vol.CXIX-No.88 no. 6409 of 7<sup>th</sup> July 2017. The committee comprised of the members drawn from Nyandarua County Government, Nyandarua County Assembly, County Commissioner's Office and an official from Intergovernmental Technical committee. The functions of the committee as indicated in the notice included to;

- a) Facilitate the handing over process by the outgoing Governor to the Governor-elect;
- b) Coordinate the provision of security of the Governor elect

- c) Coordinate the provision of the necessary facilities and personnel for the governor-elect;
- d) Coordinate the briefing of the Governor-elect by the relevant county public officers which shall include but not limited to the following:
  - i. An up-to-date assets register
  - ii. An up-to-date register of liabilities,
  - iii. A complete list of all bank accounts and reconciled balances;
  - iv. A report of staff establishment per department;
  - v. A comprehensive report on county entities (corporations) and agencies containing information outlined in (i) to (iv);
  - vi. A report on all ongoing projects including donor funded projects;
  - vii. An up-to-date report on all pending legal cases and
  - viii. County source of funding
- e) Facilitate communication between the outgoing governor and the governor elect
- f) Prepare the program and organize for the swearing-in ceremony
- g) Carry out any other activity necessary for the performance of its functions under this framework.

#### Documents submitted to the committee

The following documents were submitted to the County Assembly together with the committees report in compliance to the guidelines:

1. The county Assets register
2. Summary of County liabilities
3. County bank accounts and reconciled balances
4. County staff establishment per department
5. County list of entities, corporations and agencies
6. Ongoing multiyear projects project's and donor funded projects in the County
7. Pending litigations
8. County sources of funding for the FY 2012/2013, to 2016/17

N/B. The format for the County information had been prescribed in the gazette notice for reporting which was not precisely followed. It is however worth noting that much of the information sought was provided.

The accuracy of the forwarded information can be authenticated by committees if need be. The committee did not have the capacity and mandate to validate but to confirm that it was provided as prescribed. The documents listed above are bulky but can be gotten from the Office of the Clerk.

#### Committee Findings

A successful swearing-in ceremony was held on the 21<sup>st</sup> August 2017 marking the culmination of the committees operations. The Assumption committee provided an elaborate

work plan for all the activities leading to the swearing-in ceremony, the successes, as well as challenges experienced during the planning period and on the actual swearing-in ceremony.

The guidelines provided were followed except for a lapse in function (e) which was to facilitate communication between the outgoing Governor and the Governor elect especially during the swearing-in day.

Mr Speaker, on perusing the attached documents my committee made the following observations worth noting by the respective committees of the Assembly;

#### County assets register

- I. The County Asset register provided lacks the explanations whether ownership documents for the Vehicles in various departments are available or not. This was a requirement as per the guidelines in the gazette notice.
- II. Majority of the land parcels belonging to Government institutions lacks ownership documents which makes them prone to land grabbers.

Summary of liabilities: pending bills formed the bulk of the obligations the County has not honoured for goods and services delivered to the County.

- I. Pending legal fees accumulated over time totaled Kshs74,457,065.
- II. Use of Goods and services Kshs67,516,484.
- III. Development projects have pending bills totaling K.sh 470,386,067 and

Note: The Health Services Department has pending bills for flagship projects in J.M Kariuki (7,106,775.70) and Engineer Hospital (24,161,394.20) and the JM Kariuki incinerator (10,000) not indicated who the contractor was or who is being paid. Likewise pending bills listed for the 2013/2014 have not been indicated what work was done and by which contractor. The committee on Health should investigate the projects and confirm the missing information

County Bank Accounts and reconciled balances; The bank accounts details and balances were provided together with their reconciliation drafts as at the 21<sup>st</sup> day of September 2017. Pending bills arising out of the expenditure incurred in the swearing ceremony were not included in the report.

Note: The relevant committee can do Verification of the correctness of the information.

County staff establishment per department: A report of the staff establishment was provided as per the requirements. One thousand six hundred and forty nine staff are in the County payroll. There are also 409 casual workers and 469 workers on short contracts making a total of 2,527 personnel working for the County.

Note: An audit of the staff establishment is necessary to confirm the number of staff at work considering the staff shortage reported in most departments. The committee on Public administration and ICT should follow up the matter.

Ongoing multiyear projects and donor funded projects in the County: A comprehensive report on projects implemented for the FY 2013/2014 to2016/2017 was provided.

Note: The sectoral committees for correctness and validation can scrutinize individual department projects.

It is also worth noting that the amount appearing as spent does not commensurate with the budgetary provisions for the respective financial years especially the development expenditure.

### County entities (corporations) and agencies

The following semi-autonomous entities were reported to be in the County;

- Agricultural Training Centers (Ol Joro Orok),
- ATC (Njabini),
- Agricultural mechanization station (AMS) Nyahururu,
- Ol Kalou Water and Sanitation Company,
- Nyandarua Water and Sewerage Company.

Their enlisted staff registers of assets, liabilities and bank accounts were also provided.

### Pending legal cases

The directorate of legal affairs provided a status report on all court matters connected to the county. Two hundred cases are pending where the County government is either a defendant, respondent or an interested party with pending legal fees of K.sh 74,457,065.

### County funding

A report was submitted showing the various sources of funds for the County Government for the FY 2013/14-2016/17 which includes:

1. Equitable share from the National Government Kshs.15,862,959,019
2. Conditional grants from the National Government Kshs.282,989,879
3. Donor funding from Danida grant Kshs.44,770,123

The Projection for the FY 2017/2018 is as follows:

1. Conditional grants
  - Grant supporting construction of the County Headquarters- Kshs.121,000,000
  - Allocation for youth polytechnics- Kshs.46,590, 293
  - User fees foregone- Kshs.12,735,922
  - Maternal health care Kshs.50,716,400
  - Leasing of medical equipment- Kshs.95,744,681
  - Road maintenance Fuel levy – Kshs.183,511,039
  - World Bank loan financing county health facilities – Kshs.22,000,000
  - Kenya devolution support program – Kshs.40,222,996
  - Danida grant-Kshs.12,435,427
  - European Union grant- Kshs.66,000,000
2. County own source revenue –Kshs.371,000
3. Balance brought forward- Kshs315,702,890

### COMMITTEE CONSIDERATIONS

Mr. Speaker, the committee on Legal affairs, Labour and Intergovernmental relations and coordination, whose mandate is outlined in the Assembly's standing orders and pursuant to section 38 of the Intergovernmental Relations Act no.2 of 2012 checked the compliance to guidelines for the transition of power from the First Government to the second County government. This was expected to be uniform throughout the Country.

The submission of the report by the *ad hoc* committee was for noting by the Assembly and a post-mortem examination of its effectiveness in facilitating the transfer of power. The tabled report also marked the conclusion of the Committee on Assumption of office of the Governor, 2017 and therefore the committee is already disbanded, having accomplished their mandate as per the gazette guidelines. Subsequently the matter could not be interrogated further noting that the *ad hoc* committee's time lapsed after the expiry of one month after the inauguration of the Governor. The committee on Legal, Labour and intergovernmental relations and coordination has a responsibility to audit whether the guidelines were well adhered to and that the committee entrusted to oversee the transition delivered its mandate successfully and make recommendations for future preparations of similar events in the County.

In view of the above, the committee first examined the guidelines under the gazette notice to check on the standards set and compared the reports submitted together with the report of the committee on Assumption of the office of the Governor, Nyandarua County dated 21<sup>st</sup> September 2017.

It was observed that apart from a few hitches experienced during the actual date of swearing in, the transition was done smoothly and successfully. during the swearing in ceremony, protocol hitch was noted which caused embarrassment when the instruments of power were passed on to the incoming governor by the County Secretary instead of the outgoing Governor who was present and cited lack of proper communication by the committee.

Mr Speaker, The committee on Assumption of office of the Governor reported to have faced the following challenges which we believe should be considered by the County leadership even as we expect the process to be repeated in every five years:

1. Budgetary constraints as there were no approved budget for the Assumption of office of the Governor.
2. Time limitations given the schedule of events and activities to be accomplished
3. Overwhelming crowd against the available infrastructure
4. Lack of institutional transition frameworks
5. Public address system failure during the swearing in ceremony
6. Lack of adequate infrastructure to host such a big event.

### CONCLUSION

Mr. Speaker, my committee agrees with the *ad hoc* committee that the County lacks adequate facilities to host such big events and therefore efforts to complete construction Ol'kalou stadium should be fast tracked. Lack of budgetary provisions for the preparations of such an unavoidable ceremony was also a big oversight and we hope that the Budget and appropriation committee will endeavour to project for such expenses in the future to curb reallocation of funds which could have been avoided.

Other hitches experienced during the preparations and inauguration ceremony can be avoided in the future with adequate preparations noting that the elections are held after every five years. This accords the County administration time to make necessary plans and time to approve the budget and organize for other logistics.

### COMMITTEE RECOMMENDATIONS

In view of the above considerations the committee recommends that:

1. The County Government: County Treasury should provide money for the transition plans and related events in the electioneering year in anticipation of the transition events. The finance and economic planning chief officer to prepare a budget for the event/process by June 2021 in view of the next government.
2. That a legal framework, guidelines protocol and procedures to guide the transition process be enacted in the assembly before the 2022 general elections
3. Completion of infrastructural facilities including the stadium at the County headquarters be fast tracked to accommodate such big events.
4. Institutional capacity development to guide on joint national and county government events be funded by the County department of Public administration
5. The County assembly committees should confirm the existence of the departmental Assets registers and check if they are all inclusive to safeguard the public property.
6. That the lands chief officer should report on the steps taken to ensure all public land has title deeds to curb land grabbing before the end of FY 2017/2018.

Thank you Mr. Speaker, Sir, and I now call upon Hon. Wanjiku Muhoho to second.

**Speaker:** The County Member from Njabini Kiburu, Hon. Wanjiku Muhoho.

**Hon. Wanjiku Muhoho:** Thank you Mr Speaker. I rise to second this report by the Legal Affairs, Labour and Intergovernmental Relations Committee on consideration of the report on assumption of the office of the Governor. You will agree with me that this is the first time we had the transfer of power. I would first like to commend the committee for the thorough research they carried out, their dedication and hard work in coming up with this report. The power transfer went on successfully apart from a few issues here and there, which are of course expected though they can be avoided.

Pointing on a few, there was an issue with the protocol and as a committee we recommended that there should be a legal framework laying guidelines on how such events should be carried out. The other issue is on budget allocation; there was no budgetary allocation for the event and as a committee we recommended that in future the County Treasury should prepare a budget for the assumption of the Office of the Governor a year before the elections.

On assets issue, we found out that majority of land parcels lack proper ownership documentation and we recommended that the Chief Officer in charge of the Department of Lands, Housing and Physical Planning should look into that issue and come up with proper land ownership documents.

There was also an issue of pending bills which amount to over half a billion shillings, some of which are related to projects implemented at Engineer and J. M. Memorial Hospitals. So the Health Services Committee should follow up on that. Am sure if the recommendations in the report at hand are implemented we will be able to carry out proper power transfer.

I beg to second this report. Thank you.

*(Question proposed)*  
*(Question put and agreed to)*

**Speaker:** I agree this is a motion with statutory confinements and therefore Members could not have been able to give their input to it. It is very important that the Committee on Implementation does look into the issue. I don't know what kind of infrastructure can be laid but in future when we have the transfer of power, elaborate communication should be made within the statute so that nobody is left out of the whole process. The Implementation Committee or the Committee on Legal Affairs, Labour and Intergovernmental Relations and Coordination should come up with a formula on how to conduct that because it was very embarrassing that we had an acting county secretary handing the power instruments to an incoming governor. As a county we should never be faced with such an issue again.

I don't know whether the issue of the budget on assumption of office of the Governor was as a result of an error. If we prepare a budget by June, 2021, the money will go back to the National Treasury by June, 2022 and therefore there will be no money to use during the Governor's Office assumption exercise. So that should be rectified. The Implementation Committee has some work to do on the issue of pending bills, which is very critical. From what I know, the pending bills amounted to Kshs.314 million. We knew of that only public debt. The Implementation Committee and the Roads, Public Works and Transport Committee should look into that to find out where the near half a billion debt is coming from.

Next order.

### ADJOURNMENT

Hon. Members, the business for this sitting having been exhausted, we shall adjourn but before that, the Committee on Powers and Privileges should meet in the committee room named Aberdares. The only agenda for the meeting is election of the committee's vice Chair. We can meet there ten minutes from now at 3.50 pm so we can be through by 4.00 pm so that the House Business Committee can meet in order to approve the notice paper for next week. So we now adjourn to Tuesday, the 27<sup>th</sup> day of February, 2018 at 2.30 p.m.

*(The House rose at 3.41 pm)*