



REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
1ST ASSEMBLY-3RD SESSION



OFFICIAL REPORT

(The Hansard)

Wednesday 8th July, 2015

The Assembly met at the Assembly Chambers at 2: 30 P.M

The Speaker, Hon. Ndegwa Wahome, in the chair.

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

Speaker: Clerk, confirm that there is quorum.

The clerk-at-the-table confirms that there is no quorum

Pursuant to standing order 35 I direct that the bell be rang for ten minutes or until such time that quorum shall have been achieved

The clerk-at-the-table confirms that there is quorum.

PROCEDURAL MOTION

Speaker: Hon. Kieru Wambui.

Hon. Kieru Wambui: Thank you Mr. Speaker. I beg to move a motion that with the leave of the assembly, article 46 (5) (b) of the Standing Orders, requiring that a notice of motion be given at least one (1) day before the motion appears on the Order Paper be exempted to the motion that this house does adopt the report on the County Government Departmental Structure by the Committee on Intergovernmental Relations and Co-ordination as a report of this house and the recommendations there in as resolutions of this house. Thank you Mr. Speaker.

Mr. Speaker we did the first report in December, the executive was supposed to respond

within 60 days, and they never did. They have however responded to this six months later with a structure.

With respect to the implementation of this structure that has not been adhered to, it was found necessary by the committee to acknowledge the necessity of the government structure as provided for in the County Government Act, that immediately a government is formed, the first responsibility is to form a structure of the government administration. Mr. Speaker you realize that this has not been done in Nyandarua and there is no any gazette towards the same. All the C.E.Cs and the rest of the people are here illegally as would be declared by any citizen that would go to court.

With the reasons outlined and the expedience that this committee has worked, I urge the house to agree with the procedural motion to allow us to exempt this motion from the Standing Order 46 (5) (b) considering that a notice was given this morning, so that this business is moved today for the benefit of the county. I call upon my vice chairperson to second the Procedural Motion.

Speaker: Hon. Mumba.

Hon. Mumba Gichini: Thank you Mr. Speaker sir, I rise to second the Procedural Motion. The county government departmental structures are very important. It is not proper for the government to run without structures. With these few remarks, I second.

Question on the adoption of the procedural motion proposed.

Speaker: Hon. Kirumba.

Hon. Michael Kirumba: Mr. Speaker, I rise to support this motion bearing in mind what we are going through as a county. Time has come to put our house in order. I support the motion.

Speaker: Hon. Kimani Njiraini

Hon. Kimani Njiraini: Thank you Mr. Speaker, I rise to support the motion. We need proper structures in the government. Mr. Speaker the day before yesterday I was disappointed. Because of the lack of structures, the officers there do not recognize or respect the Hon. Members. They said that we are on contract. If we have structures, the members will be respected. I support.

Speaker: Hon. Ndirangu.

Hon. David Ndirangu (Mirangine): Thank you Mr. Speaker, I rise to support this motion and I call upon the mover to respond.

Speaker: Mover.

Hon. Kieru Wambui: Thank you Mr. Speaker, I appreciate the members and I wish that when you put the question, we shall be granted leave. I beg to move the motion.

Question on the adoption of the procedural motion put and agreed to.

Speaker: Next order.

MOTION

THE REPORT ON THE COUNTY GOVERNMENT DEPARTMENTAL STRUCTURE BY THE COMMITTEE ON INTERGOVERNMENTAL RELATIONS AND CO- ORDINATION

Speaker: Hon. John Kieru Wambui.

Hon. Kieru Wambui: Thank you Mr. Speaker. I appreciate the members for seeing the necessity of this matter. I therefore beg to move the following motion:

That this house does adopt the report on the County Government Departmental Structure by the Committee on Intergovernmental Relations and Co-ordination as a report of this house and the recommendations therein as resolutions of this house

Thank you Mr. Speaker.

Mr. Speaker, in December last year the same matter came before this house and our committee handled it. However, this was our own initiative and this is because the County Executive of Nyandarua did not have an Organizational Structure as they undertake their mandate.

One time the CEC member in charge of water visited our committee and we were dealing with the natural resources in Nyandarua that are being consumed in other counties. We decided to ask her to explain her mandate. She started by saying she thinks that her mandate is... she outlined them all. We asked her why she thinks yet it is elaborate in the structure. She said that she worked with respect to what was advertised in the newspaper. She did not mention what she is supposed to do according to the Constitution Schedule 4. This means that what was advertised and the duties of the C.E.Cs was not in line with Schedule 4 of the constitution.

It was important that we align our structures with the provisions of the schedule 4 of the constitution. We therefore wrote a report and it was adopted by this house. That report was supposed to be responded to within 60 days. When these days were over, my committee wrote to the then County Secretary and reminded them that they were supposed to gazette the structures. They said that they were sorry and they were going to add flesh to the bones we gave to them.

In other words, they disregarded what this house did. They contracted a consultant to do an organogram for the whole government. It is from it that they designed the structures for the government. Yesterday I tabled the organogram here. This committee has compiled the report from that. I wish to go outline the provisions of the constitution as it appear on page 3 of our report. The County Government's structure came into place in the year 2013 after the general elections and, the said structure, paved way for the two arms of the County Government i.e. the Assembly and the Executive.

The objects of devolution are stated, under Chapter eleven Article 174 of the constitution, as follows:

- To promote democratic and accountable exercise of power
- To foster national unity by recognising diversity
- To give powers of self-governance to the people and enhance the participation of the people in the exercise of the power of the state in making decisions affecting them

To achieve the above, there is need for functional structures within the county governments.

The membership of the committee is as per illustrated on page 5 of the report. Allow me to skip to the committee's findings. The committee found that:

1. In the structure received from the executive, the committee observed that the County Assembly is not a department under the Governor's office and therefore it should not be included there. They put the county assembly after the county secretary. We have two arms of the government and none is superior to the other and so placing the county assembly under the executive was an illegality. The executive contracted a consultant who took our money and they told us that he was qualified to craft government structures. They also provided that the county public service board is under the executive. I don't know where the county governments Act indicates that the county service board reports to the governor, neither do we have the governor reporting to the county service board.
2. The committee observed that the County Assembly Service Board should also not be included in the County Executive structure. The department stated as ICT, Legal and County Affairs should instead be named as ICT and Intergovernmental Relations. We did a report providing the department of ICT as an infrastructure department and

when you look at what the county affairs is all about, it is the same thing that the department of intergovernmental relations does.

This assembly has a letter addressed to the clerk by the governor had also, in his speech in this House, he instructed the formation of an Intergovernmental department. For the last one year, there is nothing the department of legal services has done other than handling the issue of casual labourers who are in fact waiting to be paid a whopping 15 million. This department is a consumer department and it will make no money for us.

3. It was observed that there was need for the office of the County Attorney to be created and the Directorate of legal should be under it. This House has a motion where we resolved that an office of the County Attorney be formed and that has not yet happened.
4. It was observed that the office of the Deputy Governor needed departments to enable it perform efficiently and effectively. Such offices should include: Liaison office, Policy makers, Chief of Staff and Principal Administration Secretary.

You cannot say you have an office of the deputy governor yet it has no staff for the purposes of posterity. What is the point of having a personal assistant yet there is no office generating work for the deputy governor?

5. The committee observed that there was need for creation of a Board Audit Committee to increase accountability in the Executive.
6. It was further observed that the budget for the department of Youth Affairs was under the ministry of Education and hence it should be transferred to its new docket. That should immediately take effect with the operationalization of the drafted governmental structure.

Mr. Speaker, the findings comprise an elaborate body of the report. The structural provisions for the office of the governor are found on page 8 of the report. Section 30 of the County Government Act illustrates the core functions and mandate of the governor. In preparing the report, we borrowed the responsibilities of the governor heavily from the County Government Act.

The structure provides for the offices of the chief of staff, legal adviser, political adviser, economic adviser, directorate of press, principle secretary, personal assistants, internal auditor and director of administration. The aforementioned offices would assist the office of the

governor perform its functions and deliver its mandate. Otherwise, how can a high office perform its functions and deliver its mandate when it is not supported by supporting offices that are structurally instituted?

Mr. Speaker, we borrowed the functions of the office of the deputy governor from section 32 of the County Governments Act, No 17 of 2012. We instituted in the report the supporting offices that would help the office of the deputy governor deliver its mandate. These offices include those of: principal executive secretary, personal assistant, liaison officers, policy makers, political advisors, chief of staff and private secretary.

The official structures would offer solutions to the unending wrangles between the governor and his deputy. The above stated offices under the office of the deputy governor would make it possible for the latter to perform official duties since their holder would draft schedules for him with reference to his duties. Consequently, claims that he is usually not assigned duties by the governor would end. So, for the office of the deputy governor to be relevant, it is important that offices under it be operationalized.

The deputy president of Kenya is a very busy man. How would he be busy if there were no offices under him and technocrats holding these offices to help him perform his duties? Mr. Speaker, it is now or never; we need the offices under the office of the deputy governor to be in place. That is even for the sake of posterity.

We instituted a wholesome office of the County Public Service Board (CPSB), whose functions, as appearing in the report, we culled out from the County Government Act. For the CPSB to deliver its mandate, we observed in the report that it needs supportive secretariat. The structure of the CPSB is illustrated in one of the annexure.

Mr. Speaker, remember the offices of the governor, the deputy governor, the county secretary and the county public service board are constitutional offices. On the devolved functions, it is the prerogative of the Executive to create the respective ministries. The Executive should determine what departments it requires. Some departments like Mining would be irrelevant for our county government. Such a department would be relevant to Turkana County government.

Our Executive created departments which were never gazetted. These departments include: Department of Trade, Co-Operatives, Industrialisation and Enterprise Development was structured to have the following offices under it: Directors of Industrialization and Cooperatives

and enterprise Development, Commissioner, County Trade Officer and Sub-County Trade Officers.

Mr. Speaker, it would be irrelevant to create a ministry that has no supporting offices. In view of the above, the CPSB should be challenged not to be taking too long to recruit officers long after placing advertisements in the newspapers. Officers to, for example, work in the Department of Trade have never been recruited. Directorate of cooperatives, commissioner of cooperatives, county trade office, sub-county trade offices, directorate of industrialisation and cooperatives and directorate of enterprise development need to be in place for the Ministry of Trade, Co-Operatives, Industrialisation and Enterprise Development to function efficiently.

On weights and measures, a quack purporting to be sent by the county government of Nyandarua came to Gatimu sometime back and went collecting money from proprietors who own the weighing machines. He collected a lot of money; on average he would collect 1,500 shillings for every weighing machine. I reported this matter to Madam Judy but she has never addressed it to date. The above culprit should have been taken to court since I believe nobody had given him that job. The money he collected would have been revenue for our county government.

The ministry of Trade, Co-Operatives, Industrialisation and Enterprise Development has the following units: co-operative unit, Internal trade unit, Weights and Measures unit, Industrialization unit and Enterprise development unit. The county government structures will be taken to the government printers for publication. But a citizen may run to court to challenge the county government on why it has established departmental offices that have no employees.

The Ministry of Roads, Public Works and Transport has no director. The county government motor graders have been grounded for about four months. This is because there is no office of mechanical superintendent in place to cater for that. We boast of performing core functions as a county government yet we have no offices to help us perform these functions.

We need county roads engineer, compliance engineer and county director for roads to help this ministry achieve its mandate. In as much as we need these things done, they must be done immediately. We need a county road engineer, compliance engineers, county director for roads and many others to help us achieve our mandates. Otherwise, it will not be possible. If the departments are instituted and their mandates crafted, they are going to help us immensely.

Mr. Speaker, the department of health, which is a major devolved function to the county, is very critical to human life. If you are not healthy, your normal functions are disrupted. Just recently, Hon. Suleiman and Hon. Ndirangu accompanied me to some place where we ate some food. The following day, we were all sick and nobody went to work. What I am trying to imply is that health is a very important department. The County director for health is not yet confirmed. He still serves this County in an acting capacity. How do we motivate staff members if they have been acting for almost two years? We need these things and the structures to be followed and adhered to.

Mr. Speaker, I do not want to cast aspersions. These are basic simple things and I have been saying this for quite some time. If we cannot employ people even for political reasons, whereby people will re-elect you because you gave them jobs, what are we really doing? We need these people not for the sake of filling vacancies but because of our people and for the sake of institutions Mr. Speaker.

Mr. Speaker, the County Assembly of Nyandarua has one of the best human resource and workforce because as an arm of government, it has employed people to do the right things. I do not want to belabour the point because I can read the mood of the House and I know that they are going to support this motion.

I would like to mention the department of the County Secretary and Head of County Public Service. The Office of the County Secretary is a constitutional office. The County Government Act has clear roles and responsibilities of the Governor, Deputy Governor, County Public Service Board, the County Secretary and Head of County Public Service. However, the ministries have no responsibilities entrenched in the constitution. Therefore, it is the responsibility of County Government to craft the responsibilities and core functions of those departments. That notwithstanding, the department of finance has major responsibilities and core functions illustrated and put forth under the Public Finance Management Act.

Other departments however remain without responsibilities and core functions. There are no laws illustrating their mandates. When we do a county health bill and adopt those responsibilities of that health department, then they will assume those functions and responsibilities.

Mr. Speaker, the Office of the County Secretary and the Head of County Public Service is a constitutional office. We want it Mr. Speaker, to be a directorate of administration, deputy

director, cabinet affairs, sub county administrators, chief administrators, chief officers, the offices of ward administrators, office of village administrators and village councils. Without these functions, we will not achieve a lot. It is important therefore that we have these offices for efficiency and effectiveness of this government.

Mr. Speaker, we created the Office of County Attorney, which is very important. We have a bill coming on the floor of this House that was done by my committee. It is a bill for the office of the County Attorney. Why would you delete the whole department yet it has been provided for by the law? We need that office because it is going to help us in policy analysis, litigations, enforcement and compliance to the law. We shall have County solicitor and legislative drafting under that department.

Under that report Mr. Speaker, we have annexed the structures that we have provided and we have given them the solutions to the problems of their own creation. With those many remarks, I wish to call the Hon. Member from Wanjohi, Hon. Mumba to come and second the report.

Speaker: Thank you Hon. Kieru. Yes, Hon. Member from Wanjohi, Hon. Mumba Gichini.

Hon. Mumba Gichini: Thank you Mr. Speaker Sir. I rise to second the motion brought to this House by the Chairman of the Committee on Inter Governmental Relations, Hon. Kieru.

Hon. Michael Kirumba rises on a point of order.

Speaker: What is it Hon. Kirumba?

Hon. Michael Kirumba: Mr. Speaker, this report is very important. So dear to our lives it is that it will either make or break our county. It is only unfortunate that I rose to raise an issue of quorum.

We cannot afford to debate this kind of a report, given the magnitude, just not to get through. If we do not get it right in light of the amount of resources that have been directed towards harmonization, it will not serve the interests of this House. Mr. Speaker, I wanted to draw your attention on the issue of quorum. Thank you Mr. Speaker.

Speaker: Thank you Hon. Kirumba. Clerk, please confirm whether there is quorum.

Clerk at-the-table confirms that there is no quorum

Speaker: I therefore invoke Article 35 of the Standing Orders and direct that the bell be rung for 8 minutes or until such a time that the quorum will have been achieved.

The bell is rung for 8 minutes

A member of the speaker's panel, Hon. Joyce Ng'ang'a, assumes the seat of the speaker.

Speaker: Clerk, Please confirm whether there is quorum.

Clerk at-the-table confirms that there is no quorum

Speaker: Hon. Members, according to Article 35 2(a) of the Standing Orders that reads in part:

'...the Speaker shall adjourn the Assembly until the next sitting without question put...'

Therefore, Hon. Members this house now stands adjourned until tomorrow, Thursday, the 9th day of July 2015 at 2:30 p.m.

The house rose at 3:30 P.M.