



REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
1ST ASSEMBLY- 4TH SESSION



OFFICIAL REPORT

(The Hansard)

Tuesday 9th August, 2016

The Assembly met at the Assembly Chamber (P.C.E.A Building) at 2.30 P.M

The Speaker, Hon. Wahome Ndegwa, in the Chair

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

Clerk-at-the-table confirms that there is quorum

Speaker: Quorum having been recognized, I now wish that we proceed with the business of the session.

First order.

COMMUNICATION FROM THE CHAIR

Hon. Members, as you are all aware, I was to make a communication on the issue of referral of County Government Budget Implementation Review Report as to whether it should be handled by the Committee on Budget and Appropriations or it should be handled by PIC/PAC.

Hon. Members, through a letter dated 4/7/2016, addressed to the Speaker, the Controller of Budget forwarded to this Assembly, the County Government Budget Implementation Review Report (CGBIRR) for the first half of the FY 2015/2016.

The said report was laid on the table in the House on Tuesday the 26th day of July, 2016 and the presiding chair who is also the Deputy Speaker and member for North Kinangop Hon. Edinald Wambugu King'ori referred the Report to the Budget and Appropriations Committee for the necessary action.

The referral takes importance when looked at comparatively with previous reports which had been referred to the Public Accounts and Investments Committee (PIC/PAC). This previous referrals are not without history; it is actually the office of the Controller of Budget which had specifically addressed the said reports to the committee on PIC/PAC.

According to the Office of the Controller of Budget:-

This is the second report for the FY 2015/2016 and it presents the status of budget implementation by the County Governments and analyses both revenue and expenditure performance.

From the above, it is important to define the mandate and functions of the Public Investments and Accounts Committee and that of the Budget and Appropriations Committee.

Among the mandates of the Budget and Appropriations Committee and the most relevant for purposes of the issues at hand are found at article 185(3) (a) of our standing orders which is to:-

Investigate, inquire into and report on all matters related to co-ordination, control and monitoring of the County Budget.

The key words in the definition of the mandate of the committee are “control” and “monitoring”.

On the other hand, the Committee on Public Investments and Accounts has the following mandates under Article 184(2):-

a) The accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the committee may think fit.

The key words in this particular mandate are “appropriations of the sum voted” and “accounts”.

In the Kenyan Parliament, which is Bi-cameral consisting of the senate and the National Assembly, the Reports of the Controller of Budget under Article 228 (6) of the Constitution on being laid on the table of the House have statutory referral to the relevant committees of each House which deals with issues of Budget.

This modus operandi is informed by both the law, standing orders and practices across the commonwealth. In Kenya the scrutiny of the Reports by the Controller of Budget is the exclusive mandate of the Budget Committees at both the level of Parliament and County Assemblies across the Country.

In the commonwealth, the same situation obtains with the exception of Britain where the roles of the Controller of Budget and the Auditor General are performed by the same office. Erskine May in his treatise namely, ‘Parliamentary Practice, 24th Edition’, at page 848 states that,

The Public Accounts Committee bases its work on Reports by the Comptroller of Budget and Auditor General presented to Parliament under the National Audit Act together with those on the appropriation and other accounts laid before Parliament. The

committee also considers memoranda submitted to it by the Controller of Budget and Auditor General.

Hon. Members, the reason why I mentioned that in Britain, the Office of Controller of Budget and Auditor General, is one Office unlike here in Kenya. Therefore, their reports are submitted to parliament under the British law is the work of PIC/PAC.

This departure by the United Kingdom (Britain) is informed by the reason that both the expenditure, implementation and Audit on the Budget are placed under the same office and which operates under an Audit law.

In our case both the offices of the Auditor General (OAG) and the Office of the Controller of Budget (OCOB) are established under the constitution and given independent and distinct mandates.

However, the office of the Auditor General is operationalized under our Audit Act whereas the office of the Controller of Budget will be fully defined with the right Architecture and infrastructure when the Controller of Budget Bill, 2015 which is pending before parliament is finally enacted. It is therefore right to conclude that in the Kenyan statutory and practice experience the mandate to oversight on budget implementation lies squarely within the mandate of our Budget and Appropriations Committee.

The upshot of all this is that the Budget and Appropriations Committee helps in the approval, follow up, evaluation and monitoring to ensure implementation of programs as envisioned in the approved estimates. On the other hand, the Public Investment and Accounts Committee oversees the Budget to ensure prudent application and charge on public resources in the different programs set out in the Budget.

Hon. Members, having settled the issue on the right committee to process the County Government Budget Implementation Review Report, the question that begs answer is how this all important exercise should be undertaken.

In my considered opinion, once the County Government Budget Implementation and Review Report is laid on the table of the House and seized to the Budget Committee as aforesaid, the following steps should follow:-

1. That the Budget Committee should meet and agree on the ground rules within which to engage the relevant Sectoral Committees in interrogating the Budget Implementation Review Report,
2. That the Sectoral Committees should scrutinize the Budget Implementation Review Report as it relates to their equivalent Departments in the Executive and carry out due diligence including comparing the report with the actual Budget and interviewing all

the relevant people in the Budget Implementation line; more so the accounting officer of the department who is the Chief Officer; and

3. Finally, the Sectoral Committees will submit their respective reports to the Budget Committee for consideration and consolidation with its own report as relates to the Department of Finance and Economic Planning and eventual presentation of the wholesome report to the House.

Hon. Members, the House would eventually consider the report and make resolutions majoring on addressing weaknesses and concerns in the Budget Implementation and make far reaching recommendations and proposals on prudent and feasible implementation of the Budget to serve the larger interest of our County and its people.

However, it's also my considered opinion that as democratic structures continue to mature within the Devolution family, more so the County Assemblies, the departmental committees will be able to interrogate the County Budget Implementation Review Report as relates to their departments and lay their respective reports in the House for the necessary resolutions.

To achieve this, it will call for specialized training of our clerks on the whole subject of the budget cycle so as to appropriately guide their respective committees once that time materializes.

I therefore Hon. Members call upon you to actively participate in the scrutiny of the County Government Budget Implementation Review Report within your respective departmental committees as this will lay a firm foundation and be a guide to future implementations of our budgets. That is all.

Next order.

PAPER(S) LAID

THE CONSERVATION MEASURES ON WANJOHI RIVER

Speaker: Yes, Member for Charagita, who is also the Chairperson, Water, Irrigation, Energy, Environment and Natural Resources Committee, Hon. Paul Kiruka Mburu.

Hon. Kiruka Mburu: Thank you Mr Speaker. I wish to lay in the House the Report of the Water, Irrigation, Energy, Environment and Natural Resources Committee in response to a statement sought by Hon. Joseph Mumba Gichini on the conservation measures on Wanjohi River.

Thank you Mr. Speaker.

Speaker: Very well, the report is duly tabled and the House Business Committee shall give directions on how the same shall be processed.

THE CONSTRUCTION OF NDANJO- KWA MUSYOKA ROAD

Speaker: Yes, Member for Nyakio and Vice Chairperson, Roads Public Works and Transport Committee, Hon. Joshua Muriithi.

Hon. Joshua Muriithi: Thank you Mr Speaker. On behalf of my Chairman, I wish to lay in the House the Report of the Roads Public Works and Transport Committee on the Construction of Ndanjo - Kwa Musyoka Road. I table.

Thank you.

Speaker: Very well, the report is duly tabled and the House Business Committee shall give directions on how the report shall be processed.

STATEMENTS

STATUS OF PUBLIC LAND AT KANJUURI TRADING CENTRE

Speaker: Yes, Member for Kanjuuri Ridge, Hon. Suleiman Kihika Kimani.

Hon. Suleiman Kimani: Mr. Speaker Sir, I hereby seek for a statement from the Chairperson, Committee on Lands, Housing and Physical Planning on the above stated subject matter addressing the following concerns:

Aware that the Constitution of Kenya 2010, under Article 62, provides that Public land shall vest in and be held by a county government in trust for the people resident in the county, and shall be administered on their behalf by the National Land Commission.

Further aware that there is public land that has been set aside for a market toilet and Early Childhood Education Centre at Kanjuuri Trading Centre in Kanjuuri Ward.

Concerned that there has been attempts by individuals to convert that public land into private property.

Further concerned that encroachment on such land will deny the residents of Kanjuuri Trading Centre crucial services that are fundamental in safeguarding their constitutional rights to a clean environment and education.

Taking cognizance that there is need and a duty of the County Government to protect public land from encroachment by private entities.

Arising from the foregoing, I seek that the Chairperson of the Committee on Lands, Housing and Physical Planning provides the following information:

- i. The demarcation of the land showing the boundaries of the public land *vis a vis* private land at Kanjuuri Trading Centre.
- ii. The demarcation of the land showing the boundaries of the public land set aside for the market toilet and Early Childhood Education Centre at Kanjuuri Trading Centre.

- iii. The documents relating to all the public parcels of land including and not limited to development plans, registered index maps (RIM), survey plans, allotment letters and title deeds of the area in question.
- iv. The measures to be taken to ensure that the public land and utilities are secured and that there will be no threat in future of encroachment by private entities.

Thank you Mr. Speaker Sir.

Speaker: Very well. The matter falls under the mandate of the Committee on Lands, Housing and Physical Planning. I therefore call the Chairman of that particular committee, Hon. John Githinji Mwaniki to inform the House on how much time they require to bring a report back into this House with respect to that statement.

Hon. Githinji Mwaniki: Thank you Mr. Speaker. I suppose that sixty days will be enough for the committee to investigate and interrogate the issue.

Speaker: I think that is not asking too much from the House because the issues highlighted in this statement will require a lot of engagement between the committee and department of physical planning and survey. Therefore, I believe that within sixty days, you will have done justice to this statement. The clerk will allocate time for that report within the next sixty days.

Next order.

MOTION

THE AUDITED FINANCIAL OPERATIONS OF THE NYANDARUA COUNTY
EXECUTIVE FOR THE PERIOD BETWEEN 1ST JULY 2013 AND 30TH JUNE 2014 AND THE
ADDENDUM

Speaker: Yes, the Deputy Leader of Majority Party and Member for Kipipiri, Hon. Michael Njoroge Kirumba.

Hon. Michael Kirumba: Thank you Mr. Speaker. Being a member of PICP/PAC, I rise on behalf of the Chairman to seek leave. This motion was supposed to be moved today by the chair but unfortunately, he is sitting for examinations. There are some members who are absent but they gave some submissions to this Committee.

Mr. Speaker, you also recall the interest this motion attracted since it was tabled. It is only fair if you gave directions so that this motion can be moved immediately after the KICOSCA games where we are all participants. This will ensure that every stakeholder including the public, has a chance to interrogate the addendum therein. It is therefore my humble request that you give directions on this matter so that the committee can be granted leave.

Speaker: Very well. Hon. Members, I think that this is a motion that had been substantially moved by the Chairman of PI/PAC. You remember that he was almost concluding his submissions when new developments on clarifications on some issues in the report arose and so, there was need for an addendum to that report. I am aware that that in the judicial system is called Judicial Notice while in legislature, it is called Parliamentary Notice. There is a substantial number of members sitting their exams at Laikipia University College. Member for Githioro and Chairperson of PIC/PAC is among them.

Further, in view of the fact that this Audited Report is touching on all the wards and that there are several members of the Assembly who are absent, I think we will not do it justice if it is moved today. It is important to accord everyone an opportunity to be heard. At the end of the day, we might have to debate the report even if some members will be absent but it is important that they be given a fair chance to be in this House. If we proceed with the motion today, we shall not have accorded those who are sitting the exams a fair chance to be present in the House.

As requested therefore, I will grant the leave and direct that this motion, which had been slated in tomorrows and Thursday's order paper, be removed and await for the House Business Committee to sit and allocate another time. I was of the opinion that when the House Business Committee which I chair sits, we shall allocate this motion the whole of 23rd, 24th and 25th of August, 2016 sessions so that finalize on the same.

Next order.

ADJOURNMENT

Speaker: Hon. Members, the business for the session having been exhausted, the House will now adjourn to tomorrow, Wednesday, the 10th day of August, 2016 at 9.00 A.M.

The House rose at 3.00 P.M.