REPUBLIC OF KENYA

COUNTY ASSEMBLY OF LAIKIPIA

THE HANSARD

Wednesday, 21st April, 2021

The House met at the Assembly Chambers at 2.30 p.m.

[The Deputy Speaker (Hon. Daniel Nyausi) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

VETTING OF CHIEF OFFICER FOR ADMINISTRATION

Deputy Speaker: Hon. Members, I have a communication to make. This is in regards to the appointments of the Chief Officers and the CECM's that were forwarded by the Governor particularly the Chief Officer for Administration. We said that it is the County Cohesion Committee that will be vetting him or her. In the said department, it is where we have Public Service then there is need for the Labour Committee to join hands with the Cohesion Committee in vetting the said Chief Officer.

Members of the two committees of Cohesion and Labour will be vetting the Chief Officer for Administration. Thank you.

PETITION

VILLAGE ADMINISTRATORS, COUNCILS AND ELDERS

Hon. Catherine Nyawira: Thank you, Mr. Speaker. This is a report by the Committee on County Cohesion, Justice and Legal Matters on the petition by residents of Igwamiti Ward on village administrators, village councils and village elders dated 15th April, 2021. This was raised in the Assembly on 4th November, 2020.

Mr. Speaker, first I want to thank the committee because of working hand in hand. We know that petitions are not supposed to stay in this House for a number of months. Owing to the fact that this Assembly closed doors in December and opened in February, we have been able to bring this petition with speed.

I want to thank the committee for working together and the village elders who brought this petition in absentia because they took their time to come and meet the committee and explain what they had envisioned in the County Government Act and that is why we are bringing this report today.

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Mr. Speaker, I also take this opportunity to bring this House on behalf of my Chair Hon. George Meshami who is away and I have his blessings.

Mr. Speaker, every member of this country has the right to petition according to the law and it is also envisioned under Articles 37 and 119, the Laikipia County Petition to County Assembly Act, 2014 and by the standing order 194 of the Laikipia County Assembly. The right to petition is an essential citizen participatory tool that allows direct intervention by the Assembly on issues relating to the promotion and protection of the rights of citizens.

Mr. Speaker, this Petition was received by the Clerk and was forwarded to the County Cohesion, Justice and Legal Matters Committee for further consideration. Pursuant to provisions of Article 119 of the Constitution of Kenya and Standing Orders 198, the petitioners sought through the County Assembly and these are the issues that they had raised;

1. To have the office of the village administrators established and to have payment and allowances of village elders.
2. In order to promote democratic, transparent and accountable exercise of power as per article 174 (a), of the new Constitution, people should elect their village elders freely and fairly by voting to prevent favouritism or, political mechanization by village administrators in appointment of village elders.
3. To make clear to the public how villages are divided in wards.

In that regard, the Committee's report gives a detailed summary of the issues and the responses by the petitioners. The written and oral submissions, therefore, formed the basis of the Committee's observations and the requisite interventions towards the Prayers sought. I will not go through the whole document but will only highlight on key issues on what these village elders sought when they came to us, what the County Government Act states, and what our observations and recommendations were;

On petitioner's submissions Mr. Speaker, the petitioners were invited to attend committee meetings and to give their submissions. Among the people who came were; Ms. Priscilla Njeri, Mr. Peter Mburu, Mr. Issac Wanyiri, Ms. Patricia Wangui, Mr. John Kieru and Mr. Joseph Nderitu. We met them as a committee in the Assembly and listened to them and even invited the area MCA from Igwamiti where these petitioners come from. This is what the petitioners told us;

1. Several residents had come together and they had formed the Laikipia County Council of Elders; they had also elected one of the members as the Chairman to the group.
2. The group (Laikipia Council of elders) is registered and also recognized by the Government.
3. Their motive of pushing for village administration was brought forth when they came across Article 174 of the Kenya Constitution, 2010 which they realized had not been

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fully implemented. They agreed that there was a dire need of village Council of elders and therefore agreed to petition the County Assembly.

4. According to the Constitution of Kenya, 2010 and Section 53 of the County Government Act, it allows the counties to form a Council of Elders.
5. The council of elders was there in place even before the colonial rule and was playing a very imperative role in the communities by resolving disputes that used to happen then.
6. It is the colonial government who abolished the system of the village elders.
7. The Village Elders will be involved in helping to curb crime rates in the society especially the civil crimes.
8. It is high time the Assembly and the County Government recognized the need of the village elders if our County needed to curb civil crimes especially in family settings.

Hon. Speaker, the committee observed that;

1. The petitioners were within their Constitutional rights to present the petition on Village Administration to the County Assembly.
2. The petition met all the requirements in line with provisions of the required laws.
3. The Village administrators, Village Councils and village elders can also be involved in conflict resolution and management, more so family disputes, at the village level. This will assist to ensure that not all cases are taken to Courts. We all know that our courts have a lot of backlog. There are is no small crime because a crime is a crime but Mr. Speaker you will agree with me that there is a lot of backlog and we can go the way the Kadhi's courts go by solving issues through the village elders, or even the indigenous communities like the Maasai, then I believe that we can borrow a leave from there.
4. The County Government has the mandate to ensure full effects to the object and principles of devolution as set out in Art. 174 and 175 of the Constitution of Kenya, 2010.
5. There is a policy on Laikipia County Decentralized Units Policy, 2021 which is being drafted in line with the above matter.
6. It is also important to clearly state in the policy the manner of appointment; duration of service and remuneration for the elders in form of payments and allowances.

Hon. Speaker, the committee recommended that;

1. The House adopts the County Cohesion, Justice and Legal Matters Committees' report.

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2. The County Government of Laikipia conducts civil education to all residents of the County to ensure that they are aware of the powers and rights that they hold especially in matters of Governance.
3. The County Government ensures that County Administration includes village Councils and elders as they are better informed on issues affecting their villages especially in family disputes.
4. The County Government creates conducive environment to partner with the Council of elders in the functions referred to in section 53 of the County Government Act 2012. This will ensure that communities are able to manage their own affairs and further their development.
5. The County Government of Laikipia in conjunction with the Laikipia County Assembly ensures the enactment of an Act on Decentralized Units promptly to provide for delineation and establishment of village units and their leadership position.

Hon. Speaker, the issue of petitioning the Assembly to have village elders, people who have grown in wisdom and people who are looked upon in the society is a good thing. I believe that what these people are asking for is very noble. However, even as they solve these issues, they need to have legal knowledge and need to understand arbitration, need to be paralegals in one way or another so that they do not make rulings that would go against what a court would do because essentially then their mandate would be useless.

So I ask the Members of this Assembly to adopt this report and also support the committee so that we are able to put an Act together, able to visit the court and so that we are able to solve minor cases that don't have to go to court. Thank you. I now call upon Hon. Catherine Kibue to second this report.

Hon. Catherine Kibue: Thank you, Mr. Speaker, I second this report.

Deputy Speaker: Thank you, Hon. Members, particularly the Committee on Cohesion. To my attention this not just a report and not a motion. There is no need for the Member to second it but it is fine. The Member has at least agreed by contributing that she is okay with the petition. Hon. Members according to our Standing Orders part XXII on Public Petitions and I read on Standing Order Number 201 on comments on petitions;

The Speaker may allow comments, observations or clarifications in relation to a petition presented or reported and such total time shall not exceed thirty minutes.

So members now that I have allowed one member, I can still allow a few members if there is any to make comments or observation on the said petition.

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If there is no Hon. Member who is wishing to make some comments or clarification on the same, I would say we encourage people to communicate through petitions because it is another way where their voice will get directly to the House. So Hon. Members let us encourage our people to bring more petitions to this House.

STATEMENTS

RESPONSE TO 2018/2019 AND 2019/2020 FINANCIAL YEAR PENDING BILLS

Hon. Stephen Ndiritu: Thank you, Mr. Speaker, I have a response to statements on 2018/2019 and 2019/2020 financial year pending bill. This is an extension. Mr. Speaker, the attached statement was read on the floor of the House on 4th August, 2020 by Hon. Peter Matunge and committed to County Public Accounts and Investment Committee on the same day.

The committee wrote to the CECM Finance and County Planning on 5th August, 2020 vide CGL/CA/CM/002/014 requesting for a detailed response to the statement.

The committee received a response from the CECM Finance and Economic County Planning vide ref CGL/CEF/CA. S/VOL111/11 dated 21st August, 2020 after which it scheduled a meeting with the CECM to deliberate on the response received.

The committee held a sitting with Officers from the Executive to scrutinize the response received after which it was noted that there was crucial information that had been left out.

It was agreed in the meeting that the missing information which included the contacts of the contractors who had undertaken the works, the contact person of those who the County owes the bills and the exact amount paid and balance thereof among others was to be included in the report.

The Committee received the attached response, and tabled it before the House for deliberation and adoption on 9th March, 2020. However, the Members were not satisfied with the response therein. The Committee is requesting for more time in order to table a comprehensive response once it receives one from the Executive.

Deputy Speaker: Hon. Ndiritu, you are requesting for more time yet you have not specified the time you need. What is it Hon. Chris Mark?

Hon. Chris Mark: Just to clarify maybe you can give advice, the Hon. Member who had raised the report was saying he feels satisfied unless maybe there is a concern from Members. He feels satisfied with the report.

Deputy Speaker: Is this Hon. Matunge? You are saying the Hon. Member is satisfied.

Hon. Chris Mark: Yes, he just called me and said on his part, he is satisfied unless there is a concern from the other Members of this House.

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Deputy Speaker: That being the case, we all know this is a House of order and there is a way of communication. What we do because obviously the Member will be in tomorrow, maybe we can still bring that statement tomorrow for him to register his satisfaction because there was a communication why it went back.

We do not depend on other communications particularly on behalf of Members. They have to be here themselves. So then that business will probably be dispensed tomorrow morning once the Member is present. Hon. Chris Mark we are still on statements.

COUNTY GOVERNMENT TITLE DEEDS

Hon. Chris Mark: Thank you, Mr. Speaker, pursuant to the provisions of Standing Order No. 45(2) (c), I wish to seek a statement from the Chairperson of Finance and County Planning Committee regarding the above subject matter, which is statement on the County Government Assets.

Section 153, Of the Public Finance Management Act states that;

1. The Accounting Officer for a County Government entity:
    a) Is responsible for the management of the entities assets and liabilities
    b) Shall manage those assets in such a way to ensure the County Government entity achieves value for money in acquiring, using or disposing those assets.
2. The Accounting Officer for a County Government Entity;
    a) Shall dispose-off assets only in terms of an ACT of Parliament pursuant to Article 227 of the Constitution.
    b) Shall ensure all the profits from all Assets disposals are credited to a bank account of the entity.

Mr. Speaker, Sir, Section 7 of the transition to devolve the government Act 2021, states that the authority shall facilitate and coordinate the transition to the devolved system of government as provided under Section (15), of the Six Schedules to the Constitution.

Despite the generality of the sub section 1 the authority shall;

1. Prepare and validate an inventory of all existing assets and liabilities of the government, other public entities and local authorities.
2. Make recommendations for the effective management of assets of the National and County Governments.
3. Provide mechanisms for the transfer of assets which may include, vetting the transfer of assets during transitional period.

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Pursuant to Section 15 (2) (b), of the sixth Schedule to the Constitution, develop the criteria as may be necessary to determine the transfer of National to County Government.

The criteria to determine the transfer of previously shared assets, liabilities and stuff of the government and local authorities.

The Transitional Authority team led by Kinuthia Wamwangi vacated its office in March, 2016 after completing its term paving way for the IGRTC (Inter-Governmental Relations Technical Committee) to take over the residual functions. Taking into consideration that most assets by the former municipal council were transferred, I wish to urge the Chairperson for Finance and County Planning Committee to furnish this House with title deeds of the following government premises:

1. Office of the Governor – County Hall
2. County Assembly premises in Nanyuki and Rumuruti
3. County Government offices opposite the County Assembly
4. Office of the Governor – Nyahururu
5. Office of the Governor – Rumuruti
6. County Government offices – Nanyuki Annex.

Thank you, Mr. Speaker.

Deputy Speaker: Thank you, Hon. Chris Mark for raising that statement. I will call upon the Chairperson for Finance and County Planning, or if he is not here, any Member of the said Committee, to give us the timeframe in which they will be able to come back to this House with a comprehensive answer to that Statement.

If there is no Member of the said Committee in the House, I would like to give them at least one month to come back with comprehensive answers to this Statement raised by Hon. Chris Mark. Therefore, 30 days from today you should be able to table a comprehensive statement on the same.

ADJOURNMENT

Deputy Speaker: The sittings of this House now stands adjourned until later tomorrow, Thursday, 22nd April, 2021 at 2.30 p.m.

The House rose at 3.01 p.m.

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