

COUNTY ASSEMBLY OF NAKURU

THE HANSARD

Thursday 25th May 2017

Assembly Building

The House met at 3.00pm

[The Deputy Speaker (Hon. James Tuei) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

FORMER COUNCILOR'S VISIT

The Deputy Speaker (James Tuei): Thank you honourable Members, with us today we have visitors. They are former councilors, fellow colleagues and I am glad to welcome them to this House and I am quite sure that Members, one day one time you will also be former, so let us all welcome our colleagues. I believe there is something you wanted to see or hear. So be with us though you will not be given time to contribute but you will be with us up to the end. Thank you.

PETITION

JUSTICE AND LEGAL AFFAIRS COMMITTEE REPORT ON THE

PLIGHT OF FORMER COUNCILORS

Hon. Edward Gitau: Thank you Mr. Deputy Speaker for according the Committee on Justice and Legal Affairs this opportunity to present a Report on former councilors concerning their plight and welfare.

Mr. Deputy Speaker, I want to concur with you that this Report also concerns the current MCAs who from 9th of August will acquire the title of former MCAs including the presenter of this Report...

(Laughter)

Therefore, this issue concerns all of us.

Mr. Deputy Speaker, the 2010 Constitution made way for a new constitutional order where Local Authorities were dissolved and substituted with the devolved system of government as enshrined in Chapter 11 of the Constitution.

Therefore the Petition before the Committee was presented by former councilors who sought consideration by the Assembly for service rendered to the nation in their former capacities. They

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sought for consideration to the enjoyment of benefits accorded to other public servants including but not limited to provision of pension and gratuity packages available to other government officials.

The Committee considered the Petition and came up with the Report herein.

COMMITTEE MANDATE

The Justice and Legal Affairs Committee is established pursuant to Standing order 195 of the Nakuru County Assembly Standing Orders. It is mandated to consider all matters relating to:

- i) Constitutional affairs, the administration of law and justice, including elections, ethics, integrity and anti-corruption and human rights.
- ii) Public petitions

The Committee has 18 Members and Mr. Deputy Speaker I wish to acknowledge the support and effort made by all the 18 Members in facilitating this Report and would also like to thank all those who appeared before this Committee to facilitate this investigation.

Lastly, I wish to thank the Office of the Speaker and the Clerk for facilitating this Report.

Therefore Mr. Deputy Speaker it is my pleasant duty pursuant to Standing Order number 203, to present the Report of the sectoral Committee on Justice and Legal Affairs on the plight of former councilors.

SUMMARY OF THE PETITION

The petitioners moved the Assembly to;

Investigate the issues raised in the Petition and make appropriate recommendations and legislative interventions thereon to address the plight of former councilors who served in the defunct Local Authorities in Kenya since independence.

THEIR PRAYERS

What did the councilors want or looked into?

- a) Enacting a former councilors and MCAs honorarium Bill

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- b) Making provisions for payment of one honoraria of Kshs. 1.5m to every person who served a minimum of one term as a councilor in Nakuru County since independence
- c) Making provisions for payment of monthly pension of at least Kshs 30 000
- d) Making provisions for State sponsored health insurance for all persons who have served as councilors in Kenya since independence
- e) Making provisions for access by former councilors to premises and facilities of the current County Assemblies, canteens and Speakers' galleries.
- f) Making provisions for former councilors to be exempted from car parking fees and other rates and fees while within the respective Local Authorities where they served.

The Committee had deliberations with the former councilors where several issues came to the fore that affected the delay in the tabling of this Report before this House. There was a similar Petition lodged by the petitioners at the Senate seeking the same interventions.

The Senate Committee on Labour and Social Welfare deliberated the Petition and made the following findings in the issues raised herein and above.

Payment of one off honorarium of Kshs. 1.5m

The Senate Committee noted that the terms of one off payment...Mr. Deputy Speaker I want to clarify here that the Senate is a higher House than the County Assemblies and therefore their recommendations normally prevail over those of the County Assemblies. The Senate Committee noted that the terms of one off payments after services varied depending on the organisations, length of service, wage or salary levels, performance or special hardship payments.

Despite the disparities, the main element of severance payments typically include national law or Collective Agreements that establish payments of a minimum number of a week's wages in accordance with the workers length in service.

This imply that, the County Assembly could not issue a further redress to the same as it had been sufficiently dealt with by upper House.

The Senate Committee had also issued directives relating to the issue of pension and State sponsored health to the former councilors...

The Deputy Speaker (Hon James Tuei): Hon. Malel.

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Hon. David Malel: thank you for giving me this chance Mr. Deputy Speaker,

The Deputy Speaker (Hon James Tuei): Order, Order the level of consultation is very high please can you lower.

Hon. David Malel: It is good to appreciate the work that somebody has done while he is alive, you realize that having entered this place the first time in 2002, we can remember the kind of salary that we used to get was twelve thousand and it was worse for those who came before me. We had a sitting allowance of three hundred shillings which was supposed to ferry me from Tinet and back, I hope you now see the picture.

I want us to see the entire picture of former councilors, initially I used to hear during various ceremonies where people are honored because of Mau Mau, most of them are honored when they die, and it is upon this House and the entire county government to honor the ones that are alive for the work they did, they did work vigorously and in fact to us the current MCA we are better of at least most of us we have cars and former councilors did not have and I can remember that I first bought a bicycle because it was what I could afford.

You can remember the entire ward, the leader from that ward riding a bicycle and it was a privilege that I owned a machine that was used to ferry me to various activities for the residents that elected me

It is my prayer that we put structures so that the former councilors are respected and be awarded what is worth to them, thank you Mr. Deputy Speaker.

The Deputy Speaker (Hon James Tuei): Thank you honorable Malel, you have mentioned something very prudent to honor somebody while alive and not somebody who is dead, this honorable House need to honor those who are alive.

Hon. Jonathan Warothe: I want to take this opportunity to acknowledge the effort of the Committee in realizing the efforts of the former local authorities, former councilors, former mayors and chairman's of local authorities, in fact most of what we own, most of this is as a result of the tireless effort of the councilors and mayors then. The premises that we have here is an example.

I think I will take a different dimension that we know that the Senate is more superior to us and the legislation there have more weight than what we have here, I want us as an Assembly to domesticate the report of the Senate that is the only way that will ensure and enhance the implementation of the resolution that we make in this Assembly.

I wish that chair of the Committee on Legal and Justice comes up with a Motion this time round pertaining to the resolution of the Senate so that we pass it here and have it domesticated and then we can be able to task the executive and the governor to implement it fully, of course annexing the Report that have been tabled by him so that it is domesticated and implemented in totality, thank I am the last councilor of hells gate.

The Deputy Speaker (Hon James Tuei): thank you and before honorable Muigai I hope the chairperson you noted that you are supposed to come up with a Motion.

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Hon. Joseph Muigai: thank you very much I represent Molo ward and its residents in this Assembly until we recess on our final recess and where most of us will be referred as former MCAs.

I want to comment on a number of things because the Report has given a way forward, as a member of Justice and Legal Committee this are my inputs toward operationalizing the Report

It has been said that a Motion need to be done and structures need to be put in place as honorable Malel has just said, most importantly is to think of a way of putting money in the subsequent budget because now if the Senate passed what they passed so what really remains is the implementation and at no time shall the government advice to put money for the former councilors or MCAs but it is the responsibility of the respective counties to put money in the budget to factor the operationalization of such moves.

The Deputy Speaker (Hon. James Tuei): Thank you very Much Hon Member, before Honorable Muigai I hope the Chairman you have noted what is supposed to be done now to come up with a Motion. Hon. Muigai proceed.

Hon. Joseph Muigai: Thank you Mr. Deputy Speaker. I am representing the people of Molo until the last day we go for long recess where most likely some of us as the first speaker have said, we shall be identified as former MCAs. I am one such Member who will be a former MCA.

I want to comment on a number of things because it is clear that the Report has given a way forward. As a Member of Justice and Legal Committee this are my inputs towards operationalizing the report.

One has been said that a Motion needs to be done. Two it has been said that we need to put structures in place.

But most importantly is to also think of a way of putting money in the subsequent budgets because if the Senate passed the same what remains is implementation and at no time the Government shall advise us to put money for former Councilors and MCAs but it is the responsibility of the respective Counties to see to it that it puts money in the budget to factor the facilitation of such operations.

In this case the County Assembly of Nakuru and County Executive of Nakuru May have records of the current MCA's but may not have the records of all the former councilors. So it is important that the leaders or former councilors also take initiative to present to the respective bodies or arms of the county government their records so that in the event that this is to be planned for, because budget is a planning tool of any government or institution and it is important that we have figures to guide such planning. So Mr. Temporary Speaker, in addition to what they have done, they need to give the Legal Committee records on the membership and years they served so that, that information can be passed to county executive for the CEC member in charge of Finance to invoke the relevant sections of laws to be able to plan for the former MCA's and Councilors. I rest my case.

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The Deputy Speaker (Hon James Tuei): Thank you honorable Members, reading the mood of the House and bearing in mind that Standing Order 205, the last sentence, that I only allow not more than 20 minutes for discussions. So please let Hon. Gitau respond then Hon. Gicamu.

Hon. Edward Kamau: Thank you Mr. Deputy Speaker. I wish to clarify a few issues; the Kshs 1.5 million payment to former councilors was approved by the Senate but rejected by the Salaries and Remuneration Commission (SRC) therefore bringing a Motion to the County Assembly with their content that has been dealt with by the Senate will be an exercise in futility. However, we stand advised by our Legal office on whether this really holds any water. But I was advised that former councilors still have a window to petition the SRC through the Senate for non-implementation of the Senate recommendations. That is the window that is still open. The pension of Kshs 30,000 proposed was also rejected by the Senate because the retirement benefits have been dealt with by the LAPTRUST and LAPFUND organizations. So the pension issue was rejected by Senate. The two benefits that accrued immediately from our Report is access to County Assembly, secondly is that they get parking stickers free in Nakuru Town.

The Deputy Speaker (Hon James Tuei): Thank you. Hon Gicamu please you may inform the House.

Hon. John Gicamu: Asante sana Mheshimiwa Naibu wa Spika, baada ya kunong'oneszana kwa sababu mimi nilileta mswada huu, madiwami waliostaafu, kuna kitu kimoja wanaomba kama recommendation ambayo Mheshimiwa Gitau wangepanya kidogo lakini nafikiri ni ile oversight, walikuwa wanaomba kama wangependekeza. Kwa sababu ya muda hatungeweza kutunga sheria, malilio yao ilikwa *enacting former councilors and MCA.s honorarium Bill*. Kamati ya Legal Affairs and Justice kwamba hata kama ni bunge lijalo, itengeneze hiyo sheria ambayo itashughulikia former councilors na former MCA's ambao ni sisi na wale watakao kuja baadae. Nafikiri Mheshimiwa Gitau na Mheshimiwa Spika wangepongeza kwamba *the committee recommends that the House or any other relevant House to prepare that legislation concerning honorarium Bill*.

The Deputy Speaker (Hon James Tuei): Thank you very much Hon Gicamu. We are not putting it to question because this was a Report.

PAPER

BUSINESS FOR THE COMING

Hon Stephen Kiarie: I wish to lay the Programme of the Assembly business for the next week from the House Business Committee.

1. That the Business of the House next week on Tuesday Afternoon, there will be a Paper to be laid by Hon. Steve Kihara, a Report of Lands Housing and Physical Planning Committee on Nakuru County Valuation and Rating Bill 2016.
2. A Motion by Hon Moses Ndung'u that this Assembly adopts the Report of the Budget and Appropriation Committee on the 2017/18 Budget estimates for the county government and Assembly tabled on 5th April 2017.

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3. A Motion by Hon Steve Kihara that the Nakuru County Rating and Valuation Bill 2016, be now read a Second Time.

4. On Wednesday 31st 2017, the morning session, the Nakuru County appropriation Bill No 1 of 2017 First Reading by Hon Moses Ndung'u. In the afternoon, a Report of the Committee on Budget and Appropriation on the Nakuru County Appropriation Bill No 1 of 2017, Second Reading. You notice that the House business ends on Wednesday because Thursday is a public holiday. Thank you

The Deputy Speaker (Hon James Tuei): Thank you Hon Kiarie, this House stands adjourned until Tuesday at 2.30pm

(The House rose at 3.30pm)