

MURANGA COUNTY ASSEMBLY THE HANSARD

Thursday, 20th November 2014.

The House met at 2: 34 p.m.

(The Speaker Hon. Nduati Kariuki in the Chair)

PRAYERS

COMMUNICATION FROM THE CHAIR

The Speaker: Hon. members, as I had notified you, we have the hon. Senator in this House to give us an address as provided for in our standing orders.

Hon. Senator, on behalf of the members I want to thank you for the interest you have been taking on the matters of this Assembly. Last year, I remember you hosted members of this County Assembly at your house and we had very exciting exchanges. We would like to take this opportunity to congratulate you because we are proud that through you, the County was honored to be the home of the Deputy Speaker of the National Senate.

Hon. Senator, last year was a very challenging year for this Assembly and all other Assemblies and County Governments in Kenya. When people complained about performance of the County Governments and County Assemblies judging from one year, they probably do not understand or appreciate what a daunting task it is to start anything from scratch.

As it is, we were elected one day and then immediately we were told to form a Parliament with only the Constitution, two or three legislations and the Standing Orders of the National Assembly. We started an Assembly where the Clerk had no idea of how to manage a Parliament as he had never been to one or near one, we had Hansard staff had never done Hansard work anywhere; there were no clerks for committees and in that scenario, you are supposed to form a parliament and have a performance standard based with those of the National Parliament which has been in existence since 1906. This is not an excuse for making mistakes but a request for some to understand the nature of the problem that we faced.

However, we have undergone through many challenges, we have also gone through trainings which sometimes people because of their ignorance term as waste of funds. We are very certain that now we are up to the task and we are no longer groping in dark.

Hon. Senator, County Assemblies have a major task in assisting the Government to achieve its development objectives. This County plans major transformation to be

completed in 15 years in accordance with the national Vision 2030. This includes planning for rural transformation of agriculture, urbanization for rural areas, industrialization, education in tandem with the Vision 20130 and to do all these things, we as the leaders of the county must move together.

Ward Representatives are key to selling the objectives of Vision 2030 at the grass root. Now pray: how do you sell a vision if you have not seen it working anywhere? If we want to change our agriculture to produce goods of international standards and we need laws and regulations to manage that. How do we go to benchmark with Nyeri or Embu?

I am saying this because travels outside this country have been misinterpreted by many as luxury trips, but if we are going to be part and parcel of moving this country and County to Vision 2030, we have to take examples, not from people who are groping in darkness like us but people who are more advanced than ourselves.

However, our motto, and I would like to make it very clear is that we only travel when there is an objective and when we have measurable benefits.

Hon. Senator, a County Assembly is a complete replica of National Assembly and to be effective, it requires proper facilities in form of offices and other equipment, technical people in areas of consultancy, experts in technical fields like agriculture, education and other areas. To do this, we need facilitation and it is because of this that we fail to see how a County Assembly is supposed to work effectively when it is so limited financially to do these things.

We were very saddened when the Senate which is supposed to support the counties and to protect the counties went ahead and supported and passed a legislation to curtail the spending of County Assemblies on matters that are so essential for the working of the Assembly.

How do you legislate properly if you are not facilitated to hold meetings to discuss legislations, to have proper drafting staff, to have technical staff when you drafting on technical matters even before you come to drafting? How do you become an effective oversight body when you are not facilitated to hold adequate meetings, when you are so limited to your meetings because of finances that you cannot even call the executive to task because there is no money?

Hon. Senator, we either fund the County Assemblies properly and make them do a good job or we save money then produce shoddy County Assemblies, shoddy laws,

shoddy oversight and complete absence of public participation. This is one area that we would like the Senate to look at, it is not that we object to ceilings, in fact ceilings are important, but ceilings must be based on something.

It is unfortunate for a Commission to wake up one day and say County Assembly of Murang'a you are supposed to spend Kshs. 200million or Kshs. 300million without quantifying it. What is it for?

We would have preferred Hon. Senator if this task of ceilings was entrusted to the Senators who understand legislative work and the work of legislators because we could come and talk; give them a strategic plan, and them being legislators they can understand.

Pushing us to a Commission with no proper understanding of how legislation process works is like telling us, do not do the work that the Constitution requires you to do. We do hope Hon. Senator that the Senate can look at this matter again and place this jurisdiction in a Committee of the Senate which can understand legislative procedures and the problems of legislatures rather than a Commission which has no understanding whatsoever of how legislatures work.

Hon. Senator, like I said, we work according to our strategic plan which we should be launching in the next one or two weeks but we also have some very innovative ideas that we do not want curtailed.

For example we have travelled to Singapore where law and policy was geared towards economic goals like Vision 2030; we would like to enact laws that go part and parcel with those ideals.

Recently, I was very happy when we were visited by the Kikuyu Council of Elders; it awakened my imagination to a gap that exists in our laws. Our traditional laws have been recognized by the national government in certain areas especially in marriage, but when you ask people what are these traditional laws? They vary from one village to the other, from one person to the other and it is my view that County Assemblies should take it upon their task to encode these laws so that when you talk about traditional laws we know what we are talking about. There are certain very vital areas that are not catered for by either the common law because our common law is based on the common law of England or by the statutes in Kenya.

Matters pertaining to the behavior of our young people, matters pertaining for example to the responsibility of people to take care of their old parents, there is no such law and things like bringing up children, the work ethics, why do people eat without working? Wife beating, customary marriage rules so it is my idea that a diaspora of a certain community, like our community wherever they are would sit together and codify these laws; we would go a long way in solving some of our social problems.

This is something that we would like to work on, research on, persuade other County Assemblies to take the same steps, but this requires research, it requires facilitation then CRA says you can't do it.

Like I said, we would like to work according to our strategic plan but what is the use of drawing up a beautiful strategic plan, which is hailed to be a good strategic plan showing the directions we want to move to, showing the legislations we want to make, showing how we are going to involve the public in whatever we are doing, then we are told you cannot do it, there is no money. Hon. Senator, I leave that to you and the rest of the Senators who are supposed to defend the County Governments and County Assemblies. Last time when some of these bills came, we only saw Hon. Murkomen and Hon. Kindiki on the side of the County Assemblies, the others were just whipping us

(Applause)

And we wonder where does the defending of County Governments come if every time the Senator talks, it is about whipping? Hon. Senator, the ball is in your hands.

It is now my great pleasure to welcome you to address this Hon. House. Thank you very much.

(Applause)

ADDRESS BY MURANG'A SENATOR HON. KEMBI GITURA

Sen. Kembi Gitura: Thank you very much Mr. Speaker.

The Speaker of the Murang'a County Assembly, Hon. Nduati Kariuki, the entire leadership of this County Assembly, Hon. members of the County Assembly, distinguished guests, ladies and gentlemen, it is always a great honour and privilege for me to have the opportunity to address this distinguished Assembly and I would therefore like to start by thanking you Hon. Speaker for your invitation and the warm welcome that you and the entire membership of the Assembly have always accorded me.

I bring to you fraternal greetings from the Senate and appreciate that our relationship is deepening since our interaction is no longer one way but reciprocal.

On 18th September 2014, I was honored to receive a delegation from your committee on Delegated Legislation led by the Chair Hon. Bernard Wanyoike Kariuki, MCA for Gaichanjiru who paid a courtesy call on me in my office in Parliament buildings. They later attended a meeting with their counterpart committees of the Senate and four other Counties and shared experiences on their achievements and challenges in implementing their mandate, a meeting at which I had been invited to make a keynote address and subsequently officially open.

Such a meeting as the members from this committee will attest, is a useful interaction as the legislators are able to share specific cases that they have dealt with, drawing lessons which other Counties and the Senate can learn from. Also, the Senate is able to hear firsthand from committees of County Assemblies and as you will agree, committees are the organs through which most of the work of a legislature is done.

Therefore, in a meeting between the Senate and Assembly committees, the discussions bring forth very concrete resolutions; Senators also collect useful insights about implementation of devolution from the Hon. members who are closest to the people in terms of legislature.

To meet an Assembly committee is therefore a useful means of getting qualitative participation from Kenyans in legislative work. Such meetings are now in the programme of the Senate and only a few days ago, the Senate committee on Legal affairs had one with counterpart committee's from five Counties.

This morning we were supposed to have another delegated Legislation from five counties which unfortunately had to be put off following the demise of our colleague Sen. Otieno Kajwang' because most of the committee work was deferred for this morning.

We want to see more and more of these interactions as the main mandate shared between County Assemblies is to serve and protect Counties and the people therein whom we have the privilege to represent at different levels.

Hon. Members, if you think about it, on 4th March 2013, Kenyan voters elected eight members using six ballot papers to serve in five Constitutional bodies.

Of the eight, four, that is the President and the Deputy President, Governor and the Deputy Governor serve in the national and County executives respectively while the other four, Senator, National Assembly MP, County Women representative and Member of County Assembly are legislators.

With such a high representation, it is not surprising that the people of Kenya expect that all their problems should have been resolved by now. It is therefore important for all leaders to educate the public on their respective roles and to keep consulting and updating wananchi on the progress made in the discharge of their work.

At every opportunity, I take it upon myself to give some form of civic education to tell the people what the respective roles of all the elected leaders entail, it is a challenge I would like to request each one of you to take upon yourselves because the people we represent have a right to know and therefore the capacity to judge our work more objectively.

Other than the elected leaders, every Kenyan in any village or town will at one time or another interact with other leaders from development partner agencies, faith based organizations, civil society, cultural icons, private sector and other fronts. We have a free society where persons may come together to pursue collective goals provided they do not violate the laws of the land.

It is out of such associations that we have seen for example simple *chamas* as we call them, thrive into big Multi-National Corporate entities, churches develop other arms such as schools and hospitals and local co-operatives grow into national business serving the whole of Kenya.

On the other hand, we all acknowledge that government may not always be able to provide for every need for every citizen. Article 43 of our Constitution, for instance guarantees every person economic and social rights which include the highest attainable standard of health, adequate housing and reasonable sanitation, freedom from hunger and acceptable quality of food, clean and safe water, social security and education.

Provision of these rights fall majorly within the purview of County governments; the question is whether or not there is any one government county or government that can comfortably provide all the services under these rights.

I submit Hon. members that to achieve a society where most people have economic and social success takes a collective effort among all leaders and the public. Those in elective positions have a role to play in creating a facilitative environment.

This includes among others, providing adequate security, putting in place the requisite legal frameworks for the government and other services and protecting the vulnerable in society.

But even with all that work, the government could still not single handedly be able to provide ask the services, there would still be need to co-operate with other agents, so as to achieve the change we desire in our society.

One would only need to look at the Murang'a County Integrated Development profile to note that with all the natural strengths we possess such a rich agricultural soils, proximity to Nairobi city and an educated human capital; we are still far from guaranteeing that every child born in this county today will access quality education.

In fact, a lot of children not just in Murang'a but everywhere in the Country get their first education through the efforts of the church or private citizens who have invested in Early Childhood Development centers as opposed to national or county schools, not forgetting that ECDE is a devolved function.

We must, therefore, appreciate the fact that as leaders we are only at the forefront in ensuring development but development is the collective effort of all, that is to say the government, citizens, private sector and the public.

The government which includes the legislature ought to lead in development by creating an environment where others can set up their social and economic activities and thrive for the common good. We also lead by examining how we have performed in the past so that we may achieve more in the future.

Hon. members, in the recent past we have seen a spur of development activities in the grassroots. This can be noted from the physical infrastructure put up in public institutions and amenities such as roads and stadia, on-going legislative interventions for instance in the tea sector and upcoming initiatives by the private sector such as hotels. Indeed travelling through Murang'a County, one will notice many changes that are shaping the county towards self-reliance. By way of example, it is now uncommon for people to travel to Nairobi to purchase household items or make bank transactions

as these goods and services are locally available in most towns and other trading centers in Murang'a.

You will however appreciate that these are services provided by the private sector which is more responsive and innovative towards social and economic needs as compared to the public sector but which relies largely on an infrastructure created by the public sector. How much infrastructure including roads, water and connectivity and enabling legislations made by the County Government through this Assembly will greatly affect and influence the nature of development of the County will take.

In the past 19 months or so, there has been and we continue to see social and economic transformations everywhere brought about by the change in the Constitution through devolution. However, some of the activities undertaken by both public sector, development partners and private sector beg the question, is there co-ordination among leadership? And if not, how can this be improved.

Hon. members, you may have noticed that recent legislations world over has mechanisms within for inter-agency relationships. In older legislations, provisions for relationships were very minimal taking the form of appointment of members from different agencies to the organs such as boards created in the legislation. More recently, there is a shift towards deepening relationships where laws create consultative forums.

The Public Finance Management Act for instance creates the Inter- governmental Budget and Economic Council (IBEC) that draws its membership from all the three arms of government. IBEC which is convened and chaired by the Deputy President is a platform where budget proposals and economic policy consultations between the national and County government takes place.

Another example is the Summit under the Inter-Governmental Relations Act where the President and the County Governors confer. The Summit is also fashioned as a dispute resolution forum where issues between the national and County governments can be ironed out.

One last example is the Mediation Committee under Article 113 of the Constitution under which framework legislation is negotiated between the Senate and the National Assembly to agree on what legislations affects or does not affect the Counties.

Common features of these consultative fora are that members have a real opportunity to voice their interests and in most cases consensus is built among

members even for contentious issues. Each stakeholder's views are taken into consideration and this gives room for innovative solutions to age old problems. They are therefore negotiating round tables where although all stakeholders do not always have the same strength, the consultation leads to co-operation which is ultimately beneficial to mwananchi, the common or public good.

One of the successful outcomes of the Senate and National Assembly mediation committee is the amendment to the County Governments Act to create the County Development Boards popularly known as the Sang' Act.

The County Governments Act was among the devolution laws drafted as a recommendation by the taskforce on Devolved Governments (2011) the other Acts under the framework being the Public Finance Management Act, the Inter-governmental Relations Act, the Transition to Devolved Governments Act and the Urban Areas and Cities Act. All these Acts create consultative fora aimed at resolving matters among stakeholders in line with the principles of inclusive and consultative governance.

Examples of these round tables under the Act include the Summit, the Council of Governors and IBEC amongst others.

Hon. Members, legislation, like any other work may require updating, especially after it has been tested and its shortcomings noted. This is why the tools of amendment and repeal of laws exist to allow legislators respond to the needs of the people by either improving or doing away with the laws that do not serve their purpose.

One of the inadequacies of devolution laws mentioned above is that they did not adequately provide relationships between different organs within a county. While there are adequate modes by which relations between the national and county governments are addressed, there are no consultative or a dispute resolution medium between the two arms of County government, that is the County Assembly and the County Executive.

We have witnessed situations where impeachment of Governors has been resorted to even where the issues could have been resolved through round table talks between the stakeholders. Sadly, there is currently no forum for such talks.

Permit me hon. members to mention at this juncture that Senate is considering proposals on how to remedy this problem and that we shall be coming to you for consultations on the same.

Back to the devolution laws, another shortfall noted is that there was no framework under which all elected leaders from a county could consult and co-operate to implement their mandate, especially on issues of common interest.

Mechanisms exist, for say the Senator and the County Assembly to commune, for example as we are doing today or through the messages under which an Assembly through its Speaker can communicate to the Senate, and vice versa.

However, it is only through informal meetings that the elected leaders from the county can come together to discuss issues concerning the county. While there are some counties whose leaders have been able to meet in this way, such meetings have no legal basis and depend on the goodwill of leaders working together and consequently may not be able to feed into the national processes such as debates on allocation of revenue in the Senate and National Assembly.

In addition, while during this term elected leaders from some counties have been meeting, the regularity of such meetings is not guaranteed and it is not a given that such goodwill to have informal meetings will always exist.

You will no doubt recall that we ourselves proposed informal meetings at the beginning of our respective terms and indeed, we did hold one or two meetings which were attended by most of the elected leadership of the County.

Because the meetings were not legally anchored and maybe due to suspicions and lack of goodwill, we were not able to continue meeting which in my considered opinion was unfortunate. I personally found the meetings enriching and I believed they were a great foundation towards the unity of the elected leaders and therefore of the county.

It was for these kinds of situations countrywide that it was thought important to have a formal or if you like a legal mechanism that would bring together all the leaders of a county to consult and co-ordinate holistically on county development issues. This was the rationale for the amendment that created the County Development Boards.

Honourable Members, County Development Boards are non-executive organs where leaders from all over the County can plan, co-ordinate and evaluate development projects. They will overall serve as an advisory to the county government, donor agencies and national government organs implementing functions at the county level.

The spirit of the law is to bring together all leaders with two important factors in mind. One, that every leader was elected for a particular post and therefore has a

specific mandate to fulfil and secondly, that although individual leaders have diverse mandates, the leadership collectively has a shared mandate to accelerate social and economic development in the county.

For these reasons, the deliberations and resolutions of the Board are meant to be advisory, geared towards the common good of the people we serve.

The importance of this being that the establishment of the Board recognises the unique authority of each leader on the one hand but also acknowledges the advantage of co-operation among leaders in achieving shared goals on the other hand.

I can state here without any fear of contradiction that were this law to be implemented, there would be a better use and utilization of public funds, there would be much more transparency, projects and other developments would have a wider public participation and therefore create ownership.

Indeed, I am convinced that we would see cases of impeachment of Governors only in very extreme cases of abuse of public trust because save only for implementation, leaders sitting together would be responsible for the projects and programs agreed upon for the county.

I do not for my part believe that our county or even our country has reached the level of development or even democracy where we can talk about a pure and coldly efficient separation of powers. These invariably always work in progress and hardly ever finished products. I do not believe that sitting together as leaders to discuss what is good for our county and its people in any way undermines the executive authority of the county government.

This law was developed with input at public hearings from the parties including the Commission for Implementation of the Constitution, the Law Society of Kenya, the Federation of Women Lawyers of Kenya (FIDA), the County Speaker Assemblies Forum, the Council of Governors and the general public.

County Development Boards create in my considered opinion an opportunity for considering issues from a holistic perspective. Leaders can also plan for future spending with a wider scope in mind as opposed to short term plans that consider a limited geographical area.

At the Senate for instance, we are developing a framework for management of county education institutions that is Early Childhood Development Education and Youth polytechnics.

National Government has already developed the policy framework which county governments are to implement. If these matters were to be discussed at the County Development Board, the Senator would be enriched by the perspective of the MCA and County Government who understands the unique aspects of the county.

Members of National Assembly may understand the urgency and importance of requests for funding by these institutions that may be before them like the Speaker has this afternoon talked about the funding to the County Assemblies. Any activities being undertaken by the national government in this area will also come to the fore and other stakeholders will be able to tap into the available resources. At the end of the day, there is more efficient use of resources to the ultimate benefit of mwananchi.

I of course appreciate that the matter of the Development Boards is now pending in court, but I can assure you that we are anxiously awaiting a positive outcome as we believe that this will go towards strengthening devolution which under the Constitution we have sworn to protect and defend.

In the meantime Hon. Members, our work must continue. In my last address to this Assembly, I talked about the complementary oversight function that exists between the Senate and County Assemblies.

The Senate is mandated under Article 96 of our Constitution to exercise oversight over revenue allocated to counties. I believe that the oversight role of the Senate over the county government is both collegial and individual.

The Senate as a corporate institution has the mandate to carry out the oversight role over all the 47 counties and this is why, just as one example, the Senate committee on Public Accounts and Public Investments regularly invites Governors to answer or clarify queries emanating from the report of the Auditor General, but the individual Senator I believe cannot sit back and neither should an individual Member of County Assembly and watch if he or she believes there is need to raise the red flag.

Whatever the case, raising the red flag is an exercise in overlooking the county government. As a matter of fact, I did this only recently when I saw the county

government of Murang'a advertise for a tender for the mapping of natural resources in the county.

My view was and still is that to know what natural resources are in Murang'a, the first stop would not be a public tender, this is the information in the custody of the Ministry of Mining and or Ministry of Environment, Water and Natural Resources and is readily available.

My fear is genuinely that whichever consultant wins the tender will get information from the said ministries, do a cut and paste job and get paid for the services rendered.

(Applause)

I am on the record saying that the meagre resources coming to the county from the national government must be spent prudently for the benefit of the people who have elected us to serve them. I have copied my letters on this issue to the leader of majority, the clerk and the chairman of the PIC/Pac it is my hope that they are going to deal with this issue sooner than later.

County Assemblies are specifically mandated under Article 185 (3) of the Constitution to exercise oversight over the County Executive Committee and any other County Executive organs in their respective counties; this is a role that must be guarded very jealously. In an ideal situation, these two oversight roles should feed into each other.

If all County Assemblies interrogated the Auditor General's Report for their respective counties and shared their findings with the Senate, the Senate would be able to make general interventions for the whole country based on patterns noted from the County Assembly findings; such interventions would be able to improve efficiency in the devolved system.

This synergy between Senate and County Assemblies in oversight is yet to be achieved partly because in my view, there still appears to exist suspicions or a misunderstanding of how crucial it is for the two institutions, that is to say the Senate and the County Assemblies to work together, but this must be overcome.

If the Senate and the County Assemblies do not work together, then a very important building block for devolution will not be in place and the devolution dream could easily be lost. We must improve on this and I on behalf of the Senate would like to pledge our commitment to assist in any way which we can be of help towards this goal.

I am aware from the meetings we have had with the County Assembly committees that capacity needs to be developed in your various committees to advance the quality of your oversight work. I welcome you to partner with the Senate from this front.

At Senate, we have as matter of policy started sharing all bills on our desk with the County Assemblies, this is only but part of our strategy to continuously improve our engagement with counties, so that we can mutually assist each other in discharging our mandate.

Some of the bills that are in our upcoming legislative agenda include the County Assembly Powers and Privileges Bill that aims to uphold the dignity of County Assemblies and give the proceedings of County Assemblies due protection and immunity to the members carrying out their constitutional duties can do so with the assurance of their due authority, dignity and independence.

Another proposed legislation is the County Assemblies Service Bill whose object is to entrench financial independence of County Assemblies so as to enhance their functional independence that is constitutionally provided for in Article 185 and I want to believe that this will take care of the concerns that the Hon. Speaker has raised in his brief remarks this afternoon.

It is hoped that these and other legislations will go a long way in giving Assemblies the necessary footing for activities such as summoning of witnesses, informed debates, committee meetings thereby consequently improving the quality of the Assembly work, especially that of oversight which I would like to underline that has been a very important duty of Assemblies.

As I come a conclusion honourable members, there is the famous quote in the Bible, in the book of Isaiah that says "Come, let us reason together".

This quote, in my view has two significant notions as pertains to us. First, it calls upon people, particularly leaders like you and me to logically discuss affairs on behalf of the people they have sworn to serve. In our case, we have a duty to consider matters reasonably and take decisions for the betterment of our society.

Chapter six of the Constitution which is entitled leadership and integrity envisages that those of us in leadership shall be men and women of character and integrity who would help steer people to achieve their destiny.

We are expected to bring honour to Kenya, dignity to our various offices and to promote public confidence in the integrity of the offices we have the privilege to occupy. All this can be achieved if we are reasonable in our work and this is a reminder to each one of us that the people look upon us and will judge us by our works.

The second idea from the above biblical quote is the need for unity. No one has the monopoly of knowledge however intelligent they may be perceived to be and we can only find solutions to the issues that we face today by putting our heads together.

Article 10 of our Constitution underlines good governance, integrity, transparency and accountability as national values and principles to be practiced by all, but more by us leaders. Values can only be measured through the character of a leader.

Leaders hold power and authority on behalf of others and each of us should be able to explain our actions, especially those actions taken on behalf of the public. Leadership is integrity in action. I cannot therefore over emphasize the fact that we owe it to the people who elected us to be sincere in our actions and to use resources availed to us at national and county levels for the common good. We must work together if we are to achieve the goals for which we were elected.

Hon. Members, it is widely acknowledged that no great work has ever been achieved without unity among leaders. Our history from the fight for independence is a statement to this.

During the clamour for Kenya's independence Constitution, Kenyans were only able to get a Constitution when leaders from across different parties came together in the Lancaster House Conference. After independence, the country progressively becomes a one party state and plurality was not entertained.

On the reintroduction of multipartism in 1992, there were two general elections during which the incumbent won against a sizeable opposition. As you may recall, it was finally possible for the opposition to win and take the reins of government in 2002, as a united coalition known as National Alliance Rainbow Coalition (NARC)

I need not remind you of the achievements of NARC government. In Kenya today, you will hardly find an illiterate teenager because of the free primary education programme which was one of NARC's greatest achievements.

Today, we only talk about improving the quality of education, but the problem of the access has already been substantially overcome. Such an achievement can only be possible under a united front.

I also need not remind you of the consequences of disunity. During the grand coalition government of 2008-2013, we saw the national psyche decline due to wrangles within leadership. Development slowed down considerably.

Hon. Members, we must deepen engagements among leaders so that we can work together. If everyone works independently, their good works may not be as effective because they will lack the synergy that links them to a shared vision as a county and even as a country. The spirit of our Constitution calls upon us despite our diversity, to unite as Kenyans for our common good.

Let us then not be leaders to be remembered for slowing down our people's destiny just because our personal egos were so big that we were not able to talk together as people with a common destiny.

Let each of us concede our personal points of divergence and in the words of our national anthem 'Arise in common bond united to build this our nation together.'

Hon. Members, thanks to the new Constitution and determination of the people of Kenya, we have the institution of devolution. I have said many times and I will say it again here that I am convinced that devolution is here to stay and that properly nurtured, it will change this country forever. Because of it, we have our county, a county we are all very proud of.

We now have the ability to chart our own destiny as a people. This county is known far and wide for the tenacity and enterprise of its people. Many captains of industry are to be found in Murang'a.

We produced the first PhD not just in Kenya but in the whole region. We produced the very first Mayor of Nairobi Hon. Charles Rubia who, with our own KSN Matiba and other patriots spearheaded the movement towards the second liberation of this country.

In early history, we had Joseph Kang'ethe, Job Muchuchu, Jesse Kariuki, Generals Kago and Ihura, amongst many others in the fight for independence. What Honourable Members can we not achieve in Murang'a if we had a unity of purpose?

I know that this has been elusive largely because of partisan political interests at the expense of our own development and that of our people, this is a hurdle I hope to see overcome in Murang'a in my lifetime.

I know for a fact that the moment we agree to work together as leaders of Murang'a, to consult constantly amongst ourselves and through us encourage public participation in all we do that shall be the defining moment for our country. That is the point at which we shall have taken off, the point at which the destiny of our county and its people shall have been charted.

Hon. Members, I have put my case before you, setting out the reasons why together, we must as leaders come together every so often and find solutions to our common problems.

I invite you to come and let us reason together; let us subordinate our personal interests for the greater good of the people of our County and also the people of this great Republic called Kenya. I thank you, may God bless this Assembly, may God bless Murang'a, and may God bless Kenya. Thank you very much may God bless you.

(Applause)

Hon. Members as I sit down I want to thank and appreciate the Hon. Speaker and you members for allowing me this opportunity. I have listened carefully to the very brief but very deep address by the Honourable Speaker and he has raised very important and pertinent issues and those issues I am happy that though he and I have not discussed are also bound in my brief address to you. I promise, because I am going to ask him to give me a copy of his address, I promise to follow up those issues at the Senate level.

(Applause)

And I also challenge you as a County Assembly to remember that in you standing orders and those of the Senate there is the channel by which we can communicate so that if you are not satisfied with what we are doing you can send us a message through the Speaker of the Assembly.

Only recently I received a message from the County Assembly of Kiambu complaining about a law we had passed and wanting to see if there were things we could do to help change the situation and maybe mitigate on the issues that were raised to us. These avenues are there and they should be exploited.

Remember that the Senate and County Assemblies are allies towards devolution and if we work together we shall make devolution work. And there is no other route; it is the only route we must follow, Assemblies and the Senate working together for the benefit of the counties and for the benefit of this great country. Thank you very much and once again God bless you

(Applause)

The Speaker: Hon. Senator, thank you very much for that very informative speech which later will be tabled formally in this House so that it becomes one of our major documents in our archives for good.

Hon. Senator, hon. members, to allow the Senator take his leave, the House is now temporarily adjourned for five minutes and we will resume exactly at 35 minutes past three, thank you.

House rose at 3:30 p.m.

The House met at 3: 35 p.m.

(The Deputy Speaker Hon. Gachui Mungai in the Chair)

STATEMENTS

STATUS OF KOIMBI JUNCTION – KAHUTI ROAD

Hon. Deputy Speaker: Order! Order! members we are consulting loudly.

Hon. Isaac Kamote: I hereby request for a statement from the Chairperson of Public Works, Roads and Transport Committee on the status of Koimbi Junction – Kahuti road as follows;

- a) Is he aware that the above mentioned road (3 kms) is inhibiting efficient transport due to the numerous pot holes/gullies on the road?
- b) Is there any consideration to patch up the potholes/gullies urgently to render the road accessible and improve transport?

Mr. Speaker sir, as I have indicated in my statement the road is tarmacked but the potholes on the road has turned to be gullies so the Kahuti town is totally inaccessible and the road serves major high schools like Kianderi girls. I urge the chairman to follow this matter urgently.

Hon. Deputy Speaker: Order! Member you called for a statement

Hon. Eliud Gitau: I thank the honourable member for being aggressive because within this week he has requested so many statements on my department.

Due to some hitches in finances we have organized and consulted with CEC to look for a way and set the funds to deal with some of these issues. I want him to give me about ten days and department will respond.

Hon. Isaac Kamote: I am happy with response and urge him because in other statement he has also said ten days, Mr. Speaker he should not add the ten to be 30 or 40 days, it should be exactly ten days to all the statements that I have asked. Thank you Mr. Speaker sir.

Hon. Deputy Speaker: Next order

MOTIONS

AUTHORITY FOR COUNTY TREASURY TO BORROW

Hon. Duncan Njuguna: Mr. Speaker sir, I beg to move the following motion;-
Aware that the Murang'a County Government recognizes that there has been continuous delays by the National Government to promptly release funds to the County Government, further aware that the County cannot predict with precision the day when funds are to be released at each given month, making planning very difficult, recognizing that at the end of each year all balances on County funds are returned back to the Revenue Accounts at the Central Bank and access to them becomes difficult until the full budget approval process is finalized, including the passing of the Division of Revenue Act as well as the County allocation of Revenue Fund, cognizant of the fact that the County has short term obligations that it has to meet continuously and that this delay causes the disruption of services in the County including but not limited to meeting the recurrent and development expenditure; this House authorizes the County Treasury to borrow, on short term basis, funds not exceeding five per cent of the most recently audited revenue, Pursuant to Section 142 of the Public Finance Management Act No. 18 of 2012.

Now Mr. Speaker sir, as you are aware and due to the pending court case the county government is experiencing a problem because we are operating on 50% and we are not aware on when the case will be over.

The County Executive has services to provide to the people of Murang'a, it is in that light I have seen it right to allow the County Treasury to borrow on short term basis that

is according to section 132 subsection 3 of Public Finance Management Act, the borrowed money should be repaid in one year.

Aware that also we need to pay suppliers and salaries, Mr. Speaker sir, it is only fair that we allow the Treasury to borrow that money.

Mr. Speaker sir, I will urge this House to support the Motion so that we can allow the County Treasury or the Executive to borrow that money for continuous progress in the County. In that sense, I will call upon the Hon. Member for Township Hon. Charles Karina to second the Motion. Thank you.

Hon. Deputy Speaker: Hon. Karina.

Hon. Charles Karina: Thank you Mr. Speaker, I stand to second this Motion and thank the mover of this Motion and I also urge this House to support this Motion because the content of this Motion is very clear and I know each and every member has witnessed the kind of flow of finances we have within our County.

So Mr. Speaker, I would just urge this House to pass this Motion so that we can have continuity in the operations in our County. This one is self-explanatory because when it comes to the issues of finances, you either have or you don't, so this is the way we can assist our people because we are here to represent their interests. We hear that people are working for the County yet they are not receiving payments due to the flow of finances. So, I urge this House to support this motion for a smooth running. Thank you, Mr. Speaker.

(Question proposed)

Hon. Deputy Speaker: The Motion is on the floor of the House. Hon. Rosemary.

Hon. Rosemary Wakuthii: Thank you Mr. Speaker I represent Gaturi ward. I rise to support the motion simply because we have a lot of financial problems.

This morning, I went to the Executive whereby I had an urgent issue of a road being cut off by the heavy rains. I was told that they cannot facilitate anything since they are already handicapped due to lack of finances.

I also belong to the Finance committee and we have been experiencing the same issues in the budget. So, as far as the mover of the Motion has said, we have a backlog of debts for the contractors. Even in this Assembly, we are suffering to pay the due allowances and the rest.

Therefore, I am here to support because if we fail to do that, we might somehow be paralysed and we shall not be able to deliver as we are expecting. I simply support this. Thank you, Mr. Speaker sir.

Hon. Deputy Speaker: Hon. Joseph of Kamacharia ward.

Hon. Joseph Machiri: Thank you very much Mr. Speaker sir. I rise to support this Motion fully because this Motion is overdue, it could have even come before today. I thank Hon. Duncan for taking this opportunity to bring this Motion before this House.

Mr. Speaker sir, if you can look at how our County Government is moving, there are a lot of financial constraints whereby even the contractors are not paid, they are almost going to sue this County Government because of lack of funds and the PFM Act and the law permit the County Government to borrow on short term basis.

So Mr. Speaker, it is of essence that the County Government is allowed to borrow as the law allows the government to borrow money for short term purposes. It is, very important that we give the County Government permission to borrow that money so that it can assist in some of the parts before the money comes from the National Government. So, I stand to support the Motion fully. Thank you.

Hon. Deputy Speaker: Hon. Mary.

Hon. Mary Waithira: Thank you Mr. Speaker sir. I rise to oppose the Motion. I am opposing because I think in Sections 58 and 140 of the PFM Act spells out the ways and procedures that we are supposed to take before we approve a given loan.

When you look at the Motion that we are discussing to give the County Treasury approval to borrow the 5%, it is not specific for what kind of a loan that we are about to approve.

When you look at Section 140, it says that we are supposed to have something written and it should be in accordance to Section 12 of the Constitution and again it should spell out what it is meant for. We are only supposed to approve for development purposes. I know there is another area of which all of us are aware of but let us not be taken for a ride by having a Motion that is so broad. It is for us to approve for money to be given and yet---

(Hon. Duncan Njuguna rose on a point of order)

Hon. Deputy Speaker: Point of order. And you state the order she has violated.

Hon. Duncan Njuguna: Mr. Speaker sir, is the member in order to use the words, 'being taken for a ride' and by whom?

Hon. Deputy Speaker: I think that there are powers and privileges of this House. I think she is in order. But actually Hon. Member, you continue debating provided you do not mention any name.

Hon. Mary Waithira: Thank you Mr. Speaker for defending me. Most of the time, it tells us what we are supposed to do whenever we are to discuss a given loan, but when we look at this, we are just giving an approval to the County Government Treasury if at all it is going to be supported for them to access the 5%.

It again talks of the audited account. From what I know, and being a Member of the PIAC we do not have any audited account. So, where are we basing our 5% to? Are we going to take a certain Local Defunct Authority, maybe out of the one that was working on a huge amount of money, and calculate our 5% from that, or what?

I know the intention of this Motion is very good, but why don't we take our time, Mr. Speaker sir and really look into what we want and then spell it nicely in a Motion whereby it will be specific in a way that we can really question when the money will be borrowed and the same will not be realised.

We are about to do as we do in the budget, whereby, we usually talk of a program based budget so that we may be able to oversight properly. So, even for this loan, if at all we pass it, it does not tell us what is about to be done. If at all we question and it is produced, we will not have any point to argue about.

So, we know the intention is good and we are aware of it, but let it be spelt out nicely so that if we give the approval, then later on, we will be able to compel and to ask why we passed a Motion and the loan was taken but it was not spent on the intended purpose. Otherwise, we do not have the audited account that we are to look at and when we asked from the KENAO in the workshop we had, we were told it will be out between February and March.

Maybe within this time, we will be able to look at what we are supposed to come up with in a Motion. I know that, because this hon. House will benefit from some areas, we will be able to pass it. But at that time, it will have the specifics of why we are allowing the County Treasury to go for the loan. Otherwise, if it remains this way, I oppose it. Thank you Mr. Speaker, sir.

Hon. Deputy Speaker: Hon. Catherine.

Hon. Catherine Mugo: Thank you Hon. Speaker. I rise to support this Motion reason being that we have spelt out why we want the County Government to borrow this money. We have set out and said that we want this money to meet the recurrent and developing expenditures. That has been clearly spelt out.

As a House, seriously speaking, we have seen the difficulties we have been having related to finances. For instance, just the other day, we had the Water Bill and the Mortgage and Car Loan Bill where we were expected to go out and have the views of the people. It was difficult for us as a House to move out because we did not even have the facilitation to do that, meaning that, because of the way the monies are coming in bits, we are not also able to meet our obligations as a County Assembly.

Therefore, I support the County borrowing and I pray that this House supports this Motion for the reason that each one of us is aware why this particular Motion has been brought to this House. I do not have to go into details about it. I ask you that you support this Motion.

Hon. Deputy Speaker: Hon. Charles, Kinyona.

Hon. Charles Kirigwi: Thank you Mr. Speaker. I support the Motion. However, as an Assembly and as a way forward, we need to look for ways that are sustainable. You know and I know that we are operating on the Votes and Accounts that is 50% of the budget. Suppose we borrow this money- we are going to borrow the 5%- what happens after we exhaust the window that we have for the borrowed option? What happens if we exhaust the 50%?

I think we are sitting on a time bomb. As an Assembly, we may need to look holistically on the way to have a sustainable way of addressing the flow of finances in the Executive.

I think, and I stand to be guided, that as an Assembly we may need to re-look at our budget. We either comply with whatever we were requested to do by the CRA or we come out, stand firmly and say this is the way forward. What will happen to us as a County supposing the case that is in the Court goes up to May next year? I think we may need to re-look our stand.

Maybe through your guidance, what are we looking for? What is our exposure? What is our debt exposure? Is it one or ten shillings? Maybe the Mover of the Motion will

respond to that so that we see how much we are exposed to, such as figure x. Then, our audited revenue accounts are these. The 5% is this. We will then be able to know our exposure is maybe 10 million, and we can only raise two million out of borrowing so that, as an Assembly, we are enlightened and we can know how best to manage our case. I want to clear that.

According to the provisions of the Act; we cannot borrow for the recurrent expenditure. So, I believe that whatever we are doing is for development purposes. I believe that when the Mover of the Motion will be replying he will clear that. But I support. Thank you.

Hon. Deputy Speaker: Hon. John Njoroge, Kamahuha.

Hon. John Njoroge: Thank you Mr. Speaker sir. Yes I agree that as a County desperately need money. However, I urge this House to be extremely careful not to give a blank cheque. I have not seen any legislation on what the County wants to borrow. If that can be brought, then as a House we can consider it.

Mr. Speaker, if you look at what the previous Speaker had said, I think we are actually saying the same thing; that we need to be careful. Going by the past, we need to be very careful not to commit our County to debts that are not good.

Consequently, I request the Mover to take a little bit more time and withdraw this Motion. He can, maybe, bring it next week so that members will have known the direction, especially about the legislation. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Erick.

Hon. Erick Kimani: Thank you Mr. Speaker. I rise to oppose this very good Motion, not in bad faith but for some while.

Mr. Speaker, I would first of all wish to be convinced by the Mover whether the accounts have been audited so that we can peg our borrowing on that.

Number two, what is the purpose of borrowing? It is very shallow to say in the Motion that we are borrowing this for development. It has not been specified on what developments we are pegging on.

Mr. Speaker, another thing is, how much are we borrowing? Let this Assembly be very careful. We might say or assume that we want to borrow money and pass a Motion here, only to find that our County will not manage to pay the money that we are going to

borrow. Section 141 (4) of the PFM Act, reads that, "A public debt incurred by a County Government is a charge on the County Revenue Fund."

Mr. Speaker, the revenue that we got during the last financial year was even half of what we expected to collect in our County. We overestimated the revenue collection in our County, so if we can borrow this money only to realise that what we have or what we are collecting cannot manage this debt, we are going to fall in a pit that we shall not even manage to move ourselves out of in future.

Another thing Mr. Speaker, is that Section 140 of the Public Finance Management Act gives a chance or a leeway for a County Executive Member to borrow the money on behalf of the County Government. But still, we do not have the purpose, terms and conditions for repaying the loan. So, we should at least have a draft showing the purpose of the loan and how the loan will be repaid. That is what we are calling the Debt Management Policy so that we know how much we are collecting, for what purpose and how we are going to repay this loan.

Otherwise, Mr. Speaker, if we just sit in this Assembly and pass this Motion, in the near future--- Members, I understand that we have so many debts for the contractors in our County, but this cannot stop us from holding this Motion for one or two days so that can we sit and come up with a comprehensive or a concrete Motion that will guide or help us move our County forward. Otherwise, if we just sit and start competing who will win the Motion, then we will all fall in a pit at the end of the day. Thank you Mr. Speaker.

Hon. Deputy Speaker: Hon. Kagoni.

Hon. James Kagoni: Mr. Speaker, it is true that as a County we require money. It is also true that we are in a crisis of cash, but I want to echo the voices of my colleagues because my heart tells me one thing while my mind tells me something different.

Mr. Speaker, if you check our accounts for last year, that is the financial year 2013/2014, we approximately had five billion, though we haven't received the audited report. The money from the report of the controller of budget that was returned from Murang'a County was approximately 360 million. So, if you subtract 360 million from five billion, we are talking of the money we spent to be around 4.6, if you get 5% of that, it is approximately 220 million. That is the much we can borrow for now.

Maybe we need to ask ourselves whether 220 million will be sufficient to bridge the gap exactly for what we want, even as we wait for that. Secondly, like my colleague

said, are we really giving a blank cheque? It is true that we can follow our share and do what we want, but again we are also the overseers of the other part of the money. What they will do with it is very important.

Mr. Speaker, in my feeling and sincere thinking, I would recommend we be more specific to the figures, to the way we are going to refund the monies and to the way we are going to do it.

(Applause)

It is very important so that on one side Mr. Speaker, we do not hold the gold with our right hand while we hold the fire at the other side. Much as we will have the gold on the right side, we will definitely burn.

I think there is a concern here and we need to be a bit sober. If the Mover could find it okay, my urge could be for him to withdraw the Motion and we give it like a week so that we can consolidate our minds and our thoughts. We look at it and see where we need to amend so that we are not open to danger. Thereafter, we can pass something that we harmoniously agree to. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Bernard.

Hon. Bernard Kariuki: Thank you Mr. Speaker. I represent Gaichanjiru Ward. The intention of this Motion is very noble, however, with due respect to the Mover, I would highly persuade him to rethink about deferment of the question because of the various issues that have been raised by various speakers.

Mr. Speaker, one is because of the provisions of Section 140 of the PFM Act whereby the County Government is allowed to borrow pursuant to Article 212 of the Constitution that says, "A County Government may borrow if only they are guaranteed by the National Government." If you look at Section 58 of the PFM Act, "The Cabinet Secretary for Finance will only approve the loan if the loan is capital projects specific."

Therefore, Mr. Speaker, we know the importance of this but instead of us getting into a situation where we have uncertainties, I would urge the Mover of the Motion to consider deferment of putting the question maybe until Tuesday afternoon next week so that members can even familiarise and acquaint themselves with the implications of what we are about to approve so that we do not entangle ourselves in financial issues.

If you look at Section 140, it talks about physical responsibilities, fiscal strategy paper, and also the debt management paper which shows how a County Government is going to repay loans if it engages in loans.

Mr. Speaker, we have been having that quagmire all along since we started this County Government, we would want clarity.

As I heard from all the members who rose to speak, they are not defeating the intention and the spirit of the Motion. We are all in support of this Motion because according to the PFM Act, we know that there are procedures in borrowing. We would not want to be really engaged in procedures where we are not clear.

So, I urge my good friend, the able Chair for Lands, and potential Member of Parliament for Mathioya to withdraw this Motion and wait until Tuesday next week afternoon.

(Applause)

Thank you, Mr. Speaker.

Hon. Deputy Speaker: I will now call the Mover to respond. But before I call the Mover to respond, maybe the Hon. Member for Gaichanjiru was not specific because the Mover cannot defer the putting of the question. The request can only be made to the Chair to defer the putting of the question. So, be specific.

Hon. Bernard Kariuki: Thank you Mr. Speaker for that clarification. I implore your wisdom that you defer putting the question until Tuesday next week afternoon at 2:30 because of the serious matters that this Motion is raising. Mr. Speaker, that is your prerogative because you are the one who is going to put the question. Thank you.

Hon. Deputy Speaker: I now call the Mover of the Motion to respond.

Hon. Duncan Njuguna: Thank you, Mr. Speaker sir. I never knew I am a potential candidate for Mathioya. I presume that Wambugu will not hear this.

Mr. Speaker sir, the intention of this Motion is as you are aware; we are operating on a 50% budget because of the ceilings that were put on the County Assemblies. So, the County Government cannot operate well because of the ceilings that were put on the County Assemblies.

Number two, we do pass budgets. The Executive does receive monies from the Controller of Budget. Section 140 (2) of the Public Finance Management Act says it clearly that this kind of remedy is short term. First and foremost, I thank those who have

supported the Motion, but due to the wise words of Hon. Bernard and the others who have spoken, with your leave Mr. Speaker, I request you to defer putting the question until Tuesday in the afternoon.

Hon. Deputy Speaker: Hon. Member, you are very right because the Hon. Member for Gaichanjiru had indicated that he was of the wish to defer the putting of the question. Under the Standing Order number 54 (2), the Chair is given that leeway on request from one member, but all the same, that member is not supposed to be the Mover of the Motion.

I am going to defer the putting of the question on the request from the Hon. Member for Gaichanjiru. I now rule that on Tuesday 2:45 p.m. is when we shall put the question without further debate because the debate has been concluded.

(Applause)

Next order!

ADOPTION OF REPORT OF WATER, ENERGY, FORESTRY, ENVIRONMENT AND CO-OPERATIVE MANAGEMENT COMMITTEE'S VISIT TO KANGUNU

Hon. Joseph Machiri: Thank you Mr. Speaker. I once again wish to withdraw this Motion just as I had done previously to the notice of Motion and subsequently the report. Thank you.

Hon. Deputy Speaker: That one is allowed because we had previously withdrawn the notice of the same Motion. Next order.

ADJOURNMENT

Hon. Deputy Speaker: The House stands adjourned until Tuesday next week

The House rose at 4:14 p.m.