REPUBLIC OF KENYA

COUNTY ASSEMBLY OF LAIKIPIA

THE HANSARD

Thursday, 23rd July, 2020

The House met at the Assembly Chambers at 9.00 a.m.

[The Speaker (Hon. Patrick Waigwa) in the Chair]

PRAYERS

PAPERS

ASSET LEASING FUNDS REGULATIONS REPORT

Hon. Daniel Nyausi: Thank you, Mr. Speaker. On behalf of the Chair for the Delegated Committee, Hon. Jacob Endom, I wish to lay the report on the Laikipia County Public Finance Management Act (Laikipia County Asset Leasing Fund) Regulations, 2020 by the Committee on Delegated County Legislation dated 21st July, 2020. Thank you.

(Hon. Daniel Nyausi laid the Paper on the table)

NOTICE OF MOTION

ASSET LEASING FUNDS REGULATIONS REPORT

Hon. Jacob Endom through Hon. Daniel Nyausi: Thank you, Mr. Speaker. I beg to give notice of the following motion;

> THAT this Assembly adopts the report on the Laikipia County Public Finance Management Act (Laikipia County Asset Leasing Fund) Regulations, 2020 by the Committee on Delegated County Legislation dated 21st July, 2020.

STATEMENT

STATUS OF SIPILI MARKET STALL, SIPILI SLAUGHTER HOUSE AND OLMORAN LIVESTOCK MARKET

Hon. Stephen Ndiritu: Mr. Speaker, the above statement was read on the floor of the House by Hon. George Karuiru on 26th November, 2019 and committed to the Trade, Tourism and Cooperatives on the same day. The committee wrote to the CECM for Trade, Tourism and Cooperatives vide letter Ref: CA/CGL/CM002/009 dated 27th November, 2019 requesting for the information to be forwarded to the committee on or before December, 2019 but none has been received. It is in the view of above that the committee is requesting for more time in order to table a response once the CECM responds. Thank you.

Speaker: Did you read the whole thing to the end?

Hon. Stephen Ndiritu: Yes, Mr. Speaker. I read the statement as it is. Thank you.

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Speaker: Have you been able to communicate to the CECM to know that he will have responded in one month?

Hon. Stephen Ndiritu: Yes, Mr. Speaker. We have been trying to reach the CECM but up to now we have not met him and so we are requesting for more time.

Hon. George Karuiru: Thank you, Mr. Speaker. I just wish that you can look at the annex of the statement. It is dated 21st November, 2019 when it was fronted in your Hon. House. So I wonder, it is almost a year and the committee is asking for an extension of one month. Maybe I would request for your fair hearing on this. Thank you.

Speaker: The Chairperson for Trade, Hon. Stephen, some more statements have been raised recently to the same CECM and have been responded to comprehensively in this House. Yesterday we had a statement from the same CECM and another one sometimes back. So, I am also wondering how you were trying to reach him without finding him. We really need a better explanation on why this has not been answered. Does it mean that he does not have the information? Is there any other explanation apart from seeking extension of time?

Hon. Stephen Ndiritu: Mheshimiwa Spika, nafikiria nimeeleza vizuri nilipokuwa nasoma hii taarifa. Tumekuwa na mambo mengi na huyu CECM. Huwa tunataka kuleta ripoti ambayo haina dosari yoyote. Hivyo basi ningemuomba Mheshimiwa Karuiru aweze kutupatia muda ili tuweze kuchukua undani wote ambao tunahitaji. Tumletee ripoti itakayokuwa ya ukweli, ukweli na ukweli kabisa. Ndio maana naitisha muda ili tuweze kufuatilia huyu waziri. Tumekuwa na maswali mengi na yeye. Amejibu na sasa tunataka kufuatilia hayo. Ningemuomba awe mtulivu. Tutamletea hiyo ripoti baada ya mwezi ama wiki mbili. Kitu kama hicho Mheshimiwa Spika. Tutakuwa tumeleta hapa.

Speaker: When you say two weeks it means that within a month you will have responded either in two weeks or in a month. You will not be seeking an extension of time but you will be bringing a comprehensive report.

Basing on the response that you have given to this House previously and how comprehensive the reports from that committee have been then one the month granted. It is not to seek for extension but to bring a response to this House. The people of Sipili through the Member really want to have this information. It is important for them to sort out issues that will be sorted by getting information that comes through this statement.

MOTION

ASSET LEASING FUNDS REGULATIONS REPORT

Hon. Jacob Endom through Hon. Chris Mark Said: Thank you, Mr. Speaker. On behalf of the Chair and the Committee on Delegated County Legislation, I beg to move the following motion;

> THAT this Assembly adopts the report on the Laikipia County Public Finance Management Act (Laikipia County Asset Leasing Fund) Regulations, 2020 by the Committee on Delegated County Legislation dated 21st July, 2020.

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Mr. Speaker, just to briefly go through the report. This Committee on Delegated County legislation is a Select Committee established pursuant to the provisions of Standing Order No.190 and was constituted by the House on 28th September, 2017. Whenever a statutory instrument is submitted to the County Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee, or any other Member and shall thereafter stand referred to the Committee on Delegated County Legislation.

Mr. Speaker, the membership of this committee is headed by the Hon. Member for Sosian, Hon. Jacob Endom, deputized by Hon. Zamzam Salma, Hon. Joseph Kiguru, Hon. Irene John Wachuka and I being members. Just an acknowledgement from the Chairperson, he wishes to thank the Office of the Speaker of the County Assembly and the Office of the Clerk of the County Assembly for the necessary support extended to it in the execution of its mandate. I wish to also thank the members of the committee for their participation in the compilation of the report.

Mr. Speaker, Sir, on behalf of the committee it is my distinguished honour and privilege to present this report of the Committee on Delegated and County Legislation for debate and adoption by the House. Thank you.

The Public Finance Management Act, 2012 herein after referred to as the ACT under Section 116(1), confers powers to the County Executive Committee to establish other public funds with the approval of the County Executive Committee and the County Assembly. Sub Section 9 provides that, '*regulations may provide for the establishment, management, operation or winding up of County Public Fund under this section'.*

It is pursuant to the aforementioned provisions that the County Executive Committee Member for Finance has made the Laikipia County Asset Leasing Fund Regulations, 2020 providing for the establishment and management of the Laikipia Asset Leasing Fund.

The Laikipia County Assets Leasing Fund Regulations, 2020 in accordance to the Standing Orders was tabled in the County Assembly on 24th June, 2020 and committed to the Committee on Delegated County Legislation.

Mr. Speaker, Sir, on scrutinizing any Statutory Instruments this committee is guided by the provisions of the Standing Orders as well as the provisions of the Statutory Instruments Act of 2013. Section 11 of the Statutory Instruments Act requires that, '*any Statutory Instruments should be forwarded to the Clerk for tabling in the County Assembly within 7 sitting days after the publication of that statutory instrument'.* That is why as of today it is when those seven days are elapsing. Subsection (4) provides '*that if the Statutory Instrument is not so laid as stipulated, the Statutory Instrument ceases to have effect immediately after the last day for it to be so laid'.*

Considerations for the committee include whether the Statutory Instrument is defective in its drafting or for any reason the form or purport of the Statutory Instrument calls for any elucidation, among others.

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The committee upon scrutiny observed and resolves as follows;

1. That it is of great importance that the Asset leasing Fund be established. This will ensure that the Department meets its contractual obligations with the lessors on time.
2. That the committee notes that the management and operation of the Fund as provided for in the regulation is okay, say for regulation 8 and 14 where the committee proposes the following amendments;

    a) That regulation 8 should be revised by deleting "or such as the officer as the County Executive Member shall designate in writing", so as it is clear that the Fund Administrator is substantively provided in the regulation. We know that a Fund Administrator is a very important person in the management of the fund. If this is left open in the regulation it can be manipulated.
    b) That the cost of running the fund as provided for in regulation 14 is not limited. The Committee proposes that a capping of not more than 3% of the fund as cost of running be provided for. This is because when we looked at the regulation they had not specified to what amount would be used in administering the fund. If that is also left like that they might go overboard and find that they are using even 20% to 25%. That beats the logic and purpose of the fund.

3. That the committee notes that the form and drafting of the regulation is generally okay apart from some errors noted as follows:

    a) That on the front page the word 'asset' is omitted in the title. The official title of the regulations should read ***'The Laikipia Asset Leasing Fund Regulations 2020'***.
    b) That under regulation 3 the numerical 9 is erroneously put there as it should be 8.

This were some of the observations. The committee sat and came with a few observations for the betterment of these funds which are that;

i. The County Assembly approves the establishment of the Laikipia County Assets leasing Fund under the Laikipia County Assets Leasing Fund Regulations, 2020.
ii. The Executive Committee Member causes amendments to the regulations as proposed by the committee and forward them to the County Assembly within twenty-one days from the date of adoption of this report.
iii. This House adopts the report on the Laikipia County Public Finance Management Act (The Laikipia County Assets Leasing Fund) Regulations, 2020.

Mr. Speaker, with that said I would add more on the purpose of having such a leasing. I think most Members here who are elected here we have been notified by the Finance Department. They have been kept in the loop and they know when the tractors and the leasing equipment are coming to their areas. The issue here was efficiency. We know that if a county owns a truck, tractor or any machinery and it breaks down today, it must be subjected to the

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procurement regulations. It must be procured and at times it can even take six months or two months. It depends on the bureaucracy and where the materials can be found.

The agreement with the leasing company is that if any machinery breaks down, within 24 hours to 36 hours it is repaired. If it is a car it is back on the road within 24 hours to 36 hours. These equipment are also comprehensively insured. If one breaks down or is totally damaged it can be replaced within 36 hours. With these few remarks, I beg the Honourable House to adopt this report. This is so that we can at least continue making sure that there is economic efficiency and speedy activity when it comes to contractual activities. I call Hon. Kiguru to second this report. Thank you, Mr. Speaker.

Hon. Joseph Kiguru: Asante, Mheshimiwa Spika. Nimesimama kuafiki na pia kuunga hii ripoti mkono. Tunajua ya kwamba katika hii Bunge tumepitisha Bajeti ya zaidi ya shilingi milioni mia moja kushughulikia maneno ya kukodisha. Ni vizuri tuweze kutumia hizo pesa tukiwa na sheria inayotuelekeza.

Ninapounga mkono ripoti hii ya Kamati ya *Delegated* ambayo mimi ni mwanachama, ningetaka kuelezea kidogo tu. Sisi kama kamati tumechunguza mambo mengi sana. Ninafikiria tumeandikia serikali ya Kaunti ihakikishe ya kwamba wameweka utaratibu mzuri wa kusimamia haya magari. Ukihesabu kutengeneza barabara kilomita moja ukipitia njia ya kandarasi utakuta kilomita moja itatumia zaidi ya milioni moja nukta moja. Tukipitia njia ya kukodisha utakuta ya kwamba ukiwa na shilingi laki tatu kilomita imetengenezwa na kuwekwa kila kitu.

Vile nimetaja ni kwamba kukiwa na utaratibu mzuri tunaweza kuhakikisha ya kwamba barabara zetu zitatengenezwa. Ninasema hivyo hata kama kwangu hakujafikiwa lakini ninaelekeza kwa wale tayari huo mpango wa kukodisha umefika kwao. Utakuta ya kwamba gharama ya kutengeneza barabara kilomita kumi iko chini.

Tukiwa na sheria niko na uhakika ya kwamba utekelezaji na kufikisha huduma mashinani utakuwa sawa. Sheria hii itatuongoza katika matumizi ya pesa kukiwa na utaratibu. Ninaunga mkono na ninawaomba Wajumbe wenzangu waiunge ripoti hii mkono na kuipitisha ili tupate mwelekeo mzuri katika matumizi ya pesa za umma. Asante na ninaunga mkono kabisa.

(Question proposed)

Hon. Catherine Nyawira: Thank you, Mr. Speaker. I wish to thank and congratulate the Committee on Delegated County Legislation for ensuring that this document is before this House. I want to point out two things that I have quickly perused this document and found. On part two on establishment of the fund on page three, the object and purpose of the fund, (c) says that they provide services at a fee to external clients utilizing the leased assets in line with the master lease agreement. There are two things about that statement. This equipment is meant to offer services to the County of Laikipia.

All roads belong to the County Government of Laikipia because they collect taxes everywhere. Secondly, I think it will be important that we be provided with this master lease agreement so that we know what exactly the contents of this agreement are. When you say

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services, there is no time in Laikipia that all roads have been done so when does it come that the government can now offer these equipments to outsiders to hire at a different cost?

I think this statement should be clear that until the roads in the whole of Laikipia are done, that is the only time that these equipments should be leased out because they are prone to wear and tear. This means that if they are being used for external purposes then the government is relaxing on its job and the rains are here every time. There is a lot of work to be done, so I feel that the statement carries more weight than it actually is placed to do. I feel that we should be provided with the master lease agreement so that we also know the weight of this document. Thank you, Mr. Speaker.

Hon. Irene Wachuka: Asante sana Bwana Spika. Kwanza ningetaka kuishukuru kamati ya *Delegated County Legislation* ambayo mimi ni mwana kamati kwa mambo ambayo wameyaleta hapa. Ninashukuru kwa ile kazi hata kama pale ninapotoka kule Igwamiti hapajafikiwa na ninajua tutafikiwa. Huu mpango wa kukodisha ulianza katika Wadi ya Salama. La pili ningetaka kusema kuwa ninaona umuhimu wa huu mpango wa kukodisha. Ukiangalia kule Nyahururu katika pale manispaa ya Nyahururu kunayo trekta zilizonunuliwa na serikali ya kwanza na hadi wa leo zimelala pale kwa sababu chuma kimoja kikiharibika hakuna mtu yuko na haja nayo. Juzi niliona hii ya kukodisha iliharibika wanaondoa hiyo trekta ama lile lori na kuleta lingine.

Kwa hivyo, mimi naona umuhimu na ninaunga mkono hii. Sasa hakuna kitu mtu atakuwa akilalamika haifanyiki. Nafikiria wadi kumi na tano ile imeanza ni Salama. Naona upande wa wadi ya Mheshimiwa George Karuiru Wairimu pia. Ukienda mahali hiyo kazi inafanyika unaona kabisa kazi inafanyika.

Zamani tulikuwa tunangoja. Ukienda Manispaa ya Nyahururu matrekta na malori yamelala. Yalinunuliwa na serikali ya Gavana wa kwanza. Ukiona hizo ni pesa za Kaunti ya Laikipia zimelala pale. Wakati tuko na hii ya kukodisha inaonyeshana kama ni magari. Kwa mfano, juzi kulikuwa na shida kwetu. Mambo ya gari la kuzima moto. Hilo nimetaja hadi kwa magazeti.

Gari hilo la kuzima moto lilinunuliwa wakati wa Gavana wa kwanza. Ninauliza kama ni kukodisha, hata hilo gari la kuzima moto ikiwa limekuwa la kukodisha naona hakutakuwa na shida sana. Nasimama na kuunga mkono. Kukodisha ninaona kuna kitu tumekanyaga hatua moja mbele. Ukienda mahali hayo malori na matrekta yanafanya kazi hakuna mahali serikali ya Kaunti itaingilia kusema hili trekta limelala kwa kuwa hatuna pesa ya kununua hii chuma. Likiharibika wale waliokodisha wanakuja mara moja na kuliondoa trekta lao na kuleta nyingine kuendelea. Nasimama kuunga mkono mambo ya kukodisha. Asante, Bwana Spika.

Speaker: Hon. Christopher Mark may you give a reply.

Hon. Chris Mark: Thank you, Mr. Speaker. I would like to commend the ones who have contributed to this report. Even the ones who have supported it in silence like the Leader Majority. I could see him nodding his head so it means he has been with us all along. There is a fundamental question which was asked by my Hon. Colleague.

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The mandate of the delegated legislation is a bit limited to dealing with the regulations in themselves. If the leasing contract which is key and since it is public information and every Member in this House should be privy to them. It would be in Hon. Kiguru who is the Chair of Finance and also a Member. They are the ones who can furnish this House with such a leasing contract.

Since he is here and he is also a Member of the Committee on Delegated, I know it is well noted with him. Apart from that, I would like to commend the ones who have. I do not know, I feel like the Hon. Nyawira wants to say something so it confused me a bit.

Hon. Catherine Nyawira: Mr. Speaker, I know it is illegal to interrupt when one is responding. I think that the fundamental purpose of having the master lease agreements with us before passing this Bill is very important. How then are we asked to pass a Bill without knowing what the documents mentioned here and its contents have?

Mr. Speaker, I feel it is important that you direct that this House be furnished with a document. So that we understand what is contained exactly in other documents mentioned in this document. I have also seen a document that is also mentioned here and it is not attached in any of the annexes.

Speaker: I thought we had an issue that does not fit within your contribution that you had made before. It is always not correct for any Member to contribute to a motion twice. Otherwise, you would be breaking the rules of this House. At least you have been able to air your views. I know it is an important document. It is important that the concerned committee should furnish this House with that master plan.

Hon. Chris Mark: Thank you, Mr. Speaker. I can really relate with the concerns of the Hon. Colleague. You know, this leasing has been on-going. It means the contract has been there. It does not really affect the regulations. If we allow the funds which have been set aside by law to go without the regulations, we will actually be taking risks. Since there is no monitoring and there are no regulations to the funds, they can be misused.

The contract does not really affect these regulations of setting up of the fund. It is still key and I know. I sit with Hon. Kiguru in two committees. If there is a person who can work as a youth it is him. He even works more than me in areas of committee work. I know by next week you shall see those contracts in this House. With that said I urge the support of all Members, thank you.

(Question put and agreed to)

ADJOURNMENT

Speaker: Hon. Members, this House now stands adjourned until Tuesday, 28th July, 2020 at 2.30 p.m.

The House rose at 9.32 a.m.

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