

COUNTY ASSEMBLY OF NAKURU

THE HANSARD

Tuesday, 22ND March 2022

Assembly Building

The House met at 3:00pm

[The Temporary Speaker (Hon. Philip Wanjohi) in the Chair].

PRAYER

COMMUNICATION FROM THE CHAIR

COUNTY ASSEMBLY OF NYERI STAFF VISIT

The Temporary Speaker (Hon. Philip Wanjohi): Honorable Members, I have a Communication to make. We are expecting the arrival of Staff Members, Heads of Departments from the County Assembly of Nyeri who will be joining us shortly in the gallery.

MOTION

HOUSE ADOPTS THE BUDGET COMMITTEE REPORT ON THE

MEDIUM-TERM DEBT STRATEGY PAPER 2022

The Temporary Speaker (Hon. Philip Wanjohi): Honorable Members we have a Motion to be moved by the Honorable Joel Karuri, the Chairperson for the Committee on Budget and Appropriation, that pursuant to the provisions of Section 123 of the Public Finance Management Act, 2012. That this House adopts the report of the Committee on Budget and Appropriation on the Medium-Term Debt Management Strategy Paper, 2022 laid before the table of the Assembly today 22nd March 2022 during the morning sitting.

Hon. Joel Karuri: Thank you Honorable Temporary Speaker, I gave a Notice of Motion in the morning. I thank you for according me on the behalf of the Committee on Budget and Appropriation this time to move the Motion;-

THAT this House adopts the Report of the Committee on Budget and Appropriation on the Medium-Term Debt Management Strategy Paper, 2022

From the onset, I want to thank the office of the Speaker, the office of the Clerk and Secretariat of the Budget and Appropriation Committee for the work well done and the hard work that they did to make sure that the report is ready in time. It is good to comment on the document, it highlights what the County owes suppliers, what the County owes to other institutions, and when we look at

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Nakuru County it has a total debts and pending bills amounting to Kshs 2 billion which is classified into two categories;

The debts inherited from the Defunct Local Authorities that were compiled by the Transition Authority and debts incurred by the County Government since inauguration that has been approximated to Kshs 1.8 billion. This document comes before the main Budget and the Budget Estimates because in it we find the Legal Framework and the authority to be able to appropriate money to pay for the suppliers and other people and institutions that the County owes money.

It is important to, despite looking broadly the sources or classification of the debts, it is important to comment and indicate that the County Pending Bills and debts arise from the sources highlighted below. To set the record straight we are on page 8 of the document, there are liabilities that were inherited from the Defunct Local Authorities and this has been a major debate on whether if you have a debt it becomes the first charge if you at some any point you are going to find and get money.

The question has been now the County Government inherited assets from the Defunct Local Authorities whether the same should not apply when inheriting and taking care of the liabilities. It is general accounting principle that if you inherit assets then it goes without saying that you also need to take care of the liabilities. That is how we found ourselves in taking care of liabilities that were inherited from the Defunct Local Authorities.

The other sources of pending bills are from the County Departments originating mainly from shortfall in Budget Financing. Claims from Development Retentions Account, claims from Third Party Deductions. So that we put in perspective, if we are talking about the Defunct Local Authorities, it is good to itemize on page 9 that there were Statutory Debts that were totaling to Kshs 295 million. There were suppliers and contracts amounting to Kshs 18.5 million. There were Legal Fees that were totaling to Kshs 304 million and water bills from the water utility (NAWASCO) that was totaling to Kshs 248 million.

Away from that, which is totaling to Kshs 865, 973,305. After looking into that, there are other debts that have been incurred since the inauguration of the County Government on March 2013. These debts have been categorized into two- there are Pending Bills that were compiled by the Auditor General in the External Audit Report of 2019 June that was covering the period 2013-2019 classified as either eligible or ineligible for payment.

It is worth noting that a Pending Bill Committee was established to oversee the process of clearing pending bills contained in the External Audit Report. During the period under review, an amount of Kshs 1.3 billion has been cleared where a balance of Kshs 1.295 billion remains outstanding as illustrated in table 2 on page 10 of the document. Other pending bills incurred by the County Government of Nakuru amounted to approximately Kshs 787 million and out of these Kshs 450 million is recurrent and Kshs 337 million is development-pending bills. That is well indicated and illustrated in the table 3 on page 10 of the document.

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I am reading that because the Members had an opportunity to interact with the document from 10:00 am in the morning. As alluded earlier, there Statutory Debts and these Statutory Debts are debts that were owed to institutions like LAPFund, LAPTRUST, NSSF, Accucurial Deficits and it is worth noting that these money were owed by the defunct local authorities and these money whether LAPFUND, LAPTRUST,NSSF were owed to the workers of this great county.

There are those who have retired and those who are still in service and it is totaling to Kshs 295, 415, 851 those are the statutory debts. when we talk about the defunct local authorities, it is important to have a further breakdown on that. The monies that relate to LAPTRUST, which used to be a retirement entity or institution that was charged or specialized in keeping monies for the workers, the monies that were owed to this entity is as follows:

The defunct Municipal Council of Nakuru owed these Trust Fund, Kshs 71.9 million.

The defunct county council of Nakuru owed these lab Trust Fund Kshs 22.8 million.

The different Municipal Council of Naivasha owed lap Trust Fund Kshs 23.4 million,

The defunct town council of Molo which was the smallest in terms of operations and coverage, was Kshs 3.8 million.

LEGAL FEES.

The county inherited legal fees amounting to Kenya shillings 30,427,453 that arose from legal representation to the defunct local authorities, the Committee advised to confirm whether these cases and these legal fees inform of the pending bills, whether they comply with advocate remuneration order of 2015. The reason for this, was that how do you even check whether certain lawyer or certain legal firm overcharged their services? And so, from 2015 there is that advocate remuneration order that now tries to moderate the monies that are paid to advocate firms

In addition to inherited legal fees shown above the county since inception of devolution has been involved in many legal cases, leading to high legal fees demanded by advocates representing the county. You realize that if there is an entity that gets sued every day, every week, every month is the county. There are issue surrounding land, the issues surrounding staff grievances by the staffs, and all those.

This is one of the issues that has generated a lot of debate. And it led to the creation of the Office of the County Attorney to see that the county does not depend wholly on the commercial legal services. The duty of the office of the county attorney is to see that the county is capacitated to represent the county in court.

But it is good to report here that the county attorney's office is still suffering from low staff placement. And so, in the coming budget, they have requested for monies to employ legal officers at least 15 lawyers so that they can be able now to represent the county fully in courts of law.

The committee looked at the standing bills from the county departments. And it is important to note is earlier said, though, from recurrent and other development projects and so, we cannot look at all those debts without looking at what are the risks to the county.

One of the risks is that we may find ourselves in serious damage of the county government reputation, particularly in the ability to meet its financial obligation. We want to thank the county government of Nakuru through the Treasury and also the committee that we are walking away from that risk because there was a time that if you are supplier and you wanted to get financing and you present LPOs from the county government of Nakuru, there are chances that you could not be funded, but right now, the banks in Nakuru and even nationally, they are accepting a local purchase orders from the county government of Nakuru, showing that we have successively moved from that red zone.

However, with a huge debt, our competitiveness, in sourcing for supply of public goods and services, if we are not going to continue with this trend, at some point the suppliers may run away and at times, we are not able to meet service delivery to our people.

If, for example, the contractors and other suppliers. They do not bid for the works that the county advertises. There is a strategy of dealing with the debt and pending bills.

DEBT SERVICING

The county government of Nakuru in the budget 2021/ 2022 has set aside Kshs 163 million for settling outstanding debts of which out of the Kshs 163 million Kshs108million was to furnish tax arrears owed to KRA, if there is any debt that must be prioritized, I am Not saying that other debts are not important. But the thing about KRA we have seen that they are serious at times they can attach your accounts to the detriment of the whole county government.

The county should also seek to restructure the current debts and pending bills in order to spread the debt burden. The major area of restructuring would be on substantial debt held by the county but for small debt prioritization will be undertaken based on the fiscal liquidity and space. County departments are required to prioritize program taking cognizance of resource constraints as recurrent bills are arising from all the departments, will have to be cleared as a fast charge, this will not only prevent accumulation of pending bills over the years, but it is going to instill discipline to the spending habits by all departments.

The committee observed that in our past recommendations, we have persistently requested that there be a forensic audit of the pending bills, to be done to ascertain the authenticity of the same but the county treasury has made no commitment to date to carry out the forensic audit.

If memory serves us, right. When we were debating the budget for 2021/2022, this issue came up and at that time, the Kenyan National Audit Office (KENAO) from Auditor General were working on that report, the final of the final report, so that now we can be able to say with the finality, what

the county owes to its suppliers and other contractors. And we requested for that when we were going through the debt strategy. These paper the document that was forwarded from the executive. But as of now, the final report has not been forwarded to the county treasury from KENAO so it is still work in progress.

RECOMMENDATIONS

The committee has recommended the office of the Auditor General to undertake a forensic audit to ensure that all the debts, pending bills and contingent liabilities is undertaken to ascertain accuracy and credibility of the amount before any payment is made.

The committee has allocated Kshs 200 Million to cater for the debt resolution for the FY 2022/23.

The committee directs that any appropriation forthwith to the debt resolution will be subject to the overdue report of the forensic audit.

The county inherited a huge debt from the defunct local authorities. Taking cognizant of the amount involved it is recommended that the county invites the former Clerks and Treasurers of the defunct local authorities to shed light on the nature, purpose and status of the inherited debts to ensure that the debts are fully authenticated

The county to ensure that the reported debts inherited from the defunct local authorities is reconciled with the liabilities and debts reports submitted to the transitional authority by the former clerks and Treasurers.

The County Executive Committee Member shall prepare and submit an annual report to the County Assembly on public debt not later than three months after the end of each financial year pursuant to section 194(1) of the PFM (county government) regulation 2015.

The county should provide details of any payment made out of the debt resolution budget. Further they should provide schedule detailing and reconciling any payment, reduction and increment of debts, pending bills and liabilities including contingent liabilities.

The county should negotiate for waiver of interest and penalties settle statutory creditors especially deduction from salary, LAPFUND, LAPTRUST, NSSF. In this regard the county can negotiate payment modalities favorable to the county government.

The county should ensure prudence in the use of resources and strengthen fiscal discipline to ensure that resources are used only for the allocated projects and programmes.

There is need to strengthen the debt management office to ensure prompt reports are submitted as required. Further the county debt office to develop a program for pending bills and loan payments

The county treasury is advised to be realistic in their local revenue forecasts as some pending bills emanates from shortfalls in local revenue collections that have a significant bearing on the budget framework.

Comprehensive, accurate and timely information on the public debt is critical in managing investors' sovereign risk and the cost of debt. The County is directed that debt information be published more regularly to enhance transparency and accountability in debt management in accordance with the best international practice.

I want to welcome Hon. Eddy Kiragu to second the Motion.

The Temporary Speaker (Hon. Philip Wanjohi): Thank you Hon. Karuri, Chair for Budget. Hon. Eddy Kiragu, Member for Flamingo Ward.

Hon. Eddy Kiragu: Thank you Mr. Temporary Speaker sir. I join you to welcome our guests and to tell them they should feel at home. I also want to join our Chair of the Committee on Budget in supporting this document. This is a very important document. It informs us what we should allocate both in the County Fiscal Strategy Paper and in Budget estimates. It is a very important document and it must be taken as it is. I also appreciate the management of the Assembly from the Speaker to the Clerk for giving us all that we needed to ensure that we are coming up with a good and a well appreciated document. I will take you through to page 19, specifically about recommendation and I will concentrate on 2 of the recommendations. Recommendation number 1 is that the Committee wants the office of the Auditor General to undertake forensic audit to ensure that all the debts, pending bills and contingent liabilities is undertaken to ascertain accuracy and credibility of the amount before any payment is made. For that reason, we are requesting the County treasury to fast track and speed up the process so that they can ensure that our contractors and suppliers are paid their dues. Paying them their dues will promote our economy and ensure good service is given by the suppliers. At the same time, we should not kill both local and international suppliers and contractors for that sake. I will also go to recommendation number 6 where The County Executive Committee Member shall prepare and submit an annual report to the County Assembly on public debt not later than three months after the end of each financial year pursuant to section 194(1) of the PFM (county government) regulation 2015. This will enable us to undertake and be advising the treasury in regards to the graph pertaining the revenue collection so that at the end of the day, we shall seek solution and ensure responsibility so that development can be part of this great County. I join you my Chair in support of this. Thank you.

The Temporary Speaker (Hon. Philip Wanjohi): Thank you Hon. Eddy for seconding the Motion.

I wish to recognize the presence of heads of departments from the County Assembly of Nyeri who are in this House. I will mention their names so they can wave to the Honorable Members.

1. Jane Wanjiku

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2. Josiah Mathenge
3. Lucy Bitutu
4. Matthew Kibue
5. Peter Karuru
6. Brenda Wanjugu
7. Susan Sebastian
8. Patricia Kagi
9. Elizabeth Kogi
10. Robert Kaniaru

You are most welcomed to County Assembly of Nakuru.

(Question proposed that pursuant to the provision of standing order 123 of the public finance management Act 2012, the House adopts the report of the Committee on Budget and Appropriation on the Medium-Term Debt Strategy Paper 2022 laid before the table of the Assembly today the 22ND of March, 2022 during the morning sitting)

Motion is open for discussion.

Hon. Isaac Wahome: Thank you Mr. Temporary Speaker sir, I wish to join you and welcome our visitors from Nyeri County. For clarity of this House, my mother land is Nyeri. I was born at a place called Wamagana in Giakanja and my MCA is called Hon. Kanyugo. He is the Majority Leader of these visitors that we have in the gallery and they also have a Member by the name Jambo Kenya from Iria ini. You may feel welcome. One of your own is at the ...

The Temporary Speaker (Hon. Philip Wanjohi): So, Hon. Jambo Kenya are you telling us you are a foreigner in Nakuru?

Hon. Isaac Wahome: Hon. Temporary Speaker, I wish to inform that all Nakuru people either originated from Murang'a, Nyeri, Kiambu and some we met them here so we are proud to be part of the Nakuru people. Even the Nyeri people are happy that they are well represented here. Thank you very much. If I may proceed, I first of all want to appreciate the able chair, Hon. Karuri, the entire Budget committee of which I am a member for this good document. It was well explained and the Honorable Members of course well interacted with the document like if you go to page 8, we have been taken through the sources of this debts. May be to note is that some emanated from the defunct local authorities' shortfalls in budget development intention. Suppliers and contractors and I felt that for these suppliers and contractors, it is demotivating that since 2015 up to date, we have suppliers and contractors who have not been paid. However, I appreciate the committee

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because at the subsequent years we have already allocated Kshs 200 million but I want to emphasize that these resolutions of the committee, should at least be well implemented by the County Government Executive. For instance the county, page 19, on the recommendations, the County inherited huge debt from the defunct local authority and taking cognizant of the amount involved, it is recommended that the county invites the former clerks and treasurers of the defunct local authorities to shed light on the nature and purpose on the status of the inherited debts. Noting that there was a pending bills committee, I would wish that we revisit the report or if the report is not there, then we may also go ahead and have another pending bills *adhoc* committee may be to fast tract on this because I believe if we invite these clerks and treasurers of the former defunct local authorities, we may revisit and maybe downscale the debts. You realize that we have resolved that we should negotiate a waiver of interest and penalties specially to settle the statutory debts especially deductions from salaries, lapfund, laptrust. This should also be undertaken by the committee as soon as possible and of importance is that the Treasury should be advised to be realistic in their local revenue focus and pending bills which may emanate from shortfalls in local revenue collection. When we mention local revenue collection, we need the assistance of other committees like Finance so that they ensure that whatever our local revenue we project, we should ensure that we implement or even enhance in the subsequent years. Maybe probably for the two or three years we were affected by challenges of Covid-19 but from now and going forward we should revisit the issue of shortfalls on local revenue and I believe by implementing this, these challenges of having high debts will be things of the past. Having said that, I beg to support.

The Temporary Speaker (Hon Philip Wanjohi): Thank you Hon. Jambo Kenya; Hon. Virginia member for Hells Gate Naivasha. Hon Jambo kindly put off your mic. Thank you

Hon. Virginia Wamaitha: Thank you Mr. Temporary Speaker, I will start by congratulating the committee for the work that they have done but I would like to request that whenever we have such a document, or such a report, let us have the document three or four days earlier so that the rest of us members who are not members of the budget committee, we can be able to interrogate the document. Like now since morning, I think we cannot be able to interrogate the document properly and you may see that members might not be able to contribute from an informed point. Now I will go no. 29 on outstanding bills from the county departments. The committee has indicated that the committee noted that in their submission of the 2022 medium term debts strategy paper, the pending bills schedule from respective county departments were not provided to enable the committee satisfies on the authenticity of the bills. I think from the departments, that is where we can be able to see if the contractors who have not been paid, which debts had not been paid so with the absence of this from the relevant departments, it leaves a lot to be desired and I can join Jambo Kenya and support that we need an *adhoc* committee to deal on the same. Also, we have so many people who are contractors and suppliers who are still owed by the county and with this document, I hope they will get paid and also like the issue of Nakuru Water Sewerage Company Limited, they are owed Kshs 247 million. This is a lot of money and this why sometimes people in Nakuru are complaining that they don't have water. If the company is owed such an amount of

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money, how do you expect the company to run. So, I hope whatever has been suggested in this document will be taken into account and the relevant departments to work on this. They should work on it as soon as yesterday. Thank you, Mr. Temporary Speaker, I beg to support.

The Temporary Speaker (Hon Philip Wanjohi): Thank you Hon. Virginia for your contribution. Mover

Hon. Joel Karuri: Mr. Temporary Speaker, thank you members for your input and we are taking keen interest on the recommendations and suggestions. From what Hon. Wamaitha from Hells Gate has said, it is that we as a committee, we have recommended that the pending bills, moving forward, they are not going to be paid through treasury. For example if it is a shared department of Health and they were able to in say in a certain financial year that they accumulated so much that was not in the budget, that would mean that in the next financial year even before they plan for anything else whether development or recurrent, they are first of all going to pay the pending bills or for what they accumulated as pending bills that was not budgeted for. Because we have seen that there is an appetite to continue and a very perpetual sort of appetite in coming up with these recurrent pending bills because when you compare the recurrent pending bills and development pending bills, you find that the rate at which the recurrent pending bills are accumulating since the inauguration of the county government, it is high. Of course, we know that the 70/30 percent rule applies but it is also interesting that going to the future, the departments will be taking care of their pending bills and that way we are going to curtail these unbudgeted spending. I also take consideration that in future we are going to really try and circulate the report in good time so that members can be able to interact with the document because some of these documents they are significant in terms of financial implications in the county concerned. So, we have taken keen interest on that and I want to request the members that they support this document so that now we can proceed with remaining part of budget process. Thank you mar Temporary Speaker.

The Temporary Speaker (Hon Philip Wanjohi): Thank you Hon. Karuri, thank you Hon. Members for your contributions. Now Honorable Members I propose the question;

(Question proposed that pursuant to the provisions of Section 123 of the Public Finance Management Act 2012, this House adopts the report of the Committee on Budget and Appropriations on the Medium-Term Debt Management Strategy Paper 2022 laid before the table of the Assembly today 22nd March, 2022 during the morning sitting)

(Question put and agreed to)

ADJOURNMENT

Honorable Members the House remains adjourned until tomorrow morning 9.30 am

(The House rose at 3.50pm)

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