



**OFFICIAL HANSARD REPORT**

**COUNTY ASSEMBLY OF BOMET**

**THIRD COUNTY ASSEMBLY**

**ASSEMBLY DEBATES**

## DAILY HANSARD

*The Assembly met at the Main Assembly Chamber,*

*Dr. Joyce Laboso Centre at 2:30 p. m*

Third County Assembly- Second Session

Tuesday Afternoon 25<sup>th</sup> April, 2023

*(The Assembly met at 2:30 p. m in the*

*County Assembly Mini Chamber at County Assembly Buildings)*

*[Hon. Speaker (Hon. C. Korir) in the Chair]*

### PRAYER

#### COMMUNICATION FROM THE CHAIR

**Hon. Speaker (Hon. C. Korir):** As you are aware Hon. Members, all the Members were awarded by Salaries and Remuneration Commission (SRC) that they will be given car reimbursement. Up to this point in time, only eleven of the Members have met the conditions for reimbursement.

There are two things which I must explain to you. This money is paid directly to your account from the Controller of Budget. What is required of you is a copy of the log book, which is in your name. The vehicle should not be more than eight years since the year of manufacture. The date of purchase...

*(Hon. K. Ngetich rose on a point of order)*

**Hon. K. Ngetich (Siongiroi Ward, CCM):** Hon. Speaker, I am requesting you to relay that information during our 'kamukunji'.

**Hon. Speaker (Hon. C. Korir):** The Hon. Member is trying to usurp the powers of the Chair.

**Hon. K. Ngetich (Siongiroi Ward, CCM):** I was only requesting.

**Hon. Speaker (Hon. C. Korir):** I am making a communication. You will have a time for your 'kamukunji'. This one will not be a matter of debate because it is a requirement by the Controller of Budget.

The funds are available. It is just that there is a difference because these funds are not with us. They are in Nairobi but they have been requisitioned for. Please comply so that you do not miss on this.

### PAPERS

**Hon. Speaker (Hon. C. Korir):** Let us start with the Chairperson, Committee on Finance.

**Hon. N. Kibet (Kapletundo Ward, UDA):** Hon. Speaker, thank you. I beg to lay the following

Papers on the Table of the Assembly today, Tuesday, 25<sup>th</sup> April 2023:

1. The report of the Committee on Finance and Economic Planning on the Bomet Annual Development Plan 2023/2024
2. The report of the Committee on Finance and Economic Planning on the Request for Approval of an Overdraft Facility by the County Executive Committee Member for Finance and Economic Planning for Salary and Payroll Management System.

Hon. Speaker, I beg to lay.

*(Hon. Member laid the Paper)*

**Hon. Speaker (Hon. C. Korir):** Thank you. Chairperson, Committee on Labour you can proceed.

**Hon. B. Rotich (Chebunyo Ward, INDEPENDENT):** Hon. Speaker, thank you. I beg to lay the following Papers on the Table of the County Assembly today, Tuesday, 25<sup>th</sup> April 2023:

The First Report of the Committee on Labour and Public Service on the Bomet County Public Service Board Annual Report for the period ending 31<sup>st</sup> December 2022.

*(Hon. Member laid the Paper)*

#### NOTICES OF MOTION

**Hon. W. Kiprotich (Chepchas Ward, UDA):** Hon. Speaker, Sir, I beg to give the following Notice of Motion:

WHEREAS the National Land Commission recently made a crucial recommendation on the Kipsigis ancestral land claim, as published in Gazette Notice No. 4512 on April 6, 2023;

NOTING the enduring and deep-seated desire of the Kipsigis people for redress due to the reprehensible appropriation of their ancestral land by the colonial government, which continues to be dominated by multinational tea companies;

ACKNOWLEDGING the commendable recommendations put forth by the National Land Commission, including the resurveying of lands owned by multinational tea estates to determine any surplus land, reaching an understanding with the County Government of Bomet, withholding lease renewals until an agreement is reached, enhancing the rate and rent on such lands for the benefit of the national and county governments, and converting all 999-year-old leases to the constitutional requirement of 99 years;

CONCERNED by the lingering delay in implementing the National Land Commission's recommendations, despite significant public interest and enthusiasm;

NOW, THEREFORE, this House resolves for the establishment of a multi-sectoral committee to undertake the following actions:

- a) Immediately cause the formation of a team of experts to carry out a resurvey of all the lands held

by multinational tea estates and identify residual lands for administration by the County Government.

- b) Advise on the preparation of the requisite memoranda for execution by the County Government and the multinational corporations, as recommended by the National Land Commission;
- c) Explore and proffer proposals on the formation of an entity, under the auspices of the County Government that will be charged with administering and managing the tea farms that will have been recovered and reverted to the Kipsigis people.
- d) Furnish the County Assembly with regular reports on the progress made towards implementing the National Land Commission's recommendations, with the first report to be made within 30 days of the adoption of this resolution.

I beg to give.

*(Hon. Member laid the Notice of Motion)*

**Hon. Speaker (Hon. C. Korir):** Hon. Chairperson, Committee on Labour

**Hon. B. Rotich (Chebunyo Ward, INDEPENDENT):** Hon. Speaker, I beg to give Notice of the following Motion:

THAT, this County Assembly adopts the report of the Committee of Labour and Public Service on the Bomet County Public Service Annual Report for the period ending 31<sup>st</sup> December 2022 laid on the Table of the County Assembly on Tuesday, 25<sup>th</sup> April 2023.

*(Hon. Member laid the Notice of Motion)*

**Hon. N. Kibet (Kapletundo Ward, UDA):** Thank you Mr. Speaker, Sir. I beg to give notice of the following motions.

- i. That pursuant to standing order 201(5) section G of the county assembly standing orders. This county assembly adopts the report of the Committee on Finance and economic planning on the Bomet county annual revenue development plan 2023/24 and pursuant to article 185(4) of the constitution of Kenya and section 126 of the Public Finance Management Act 2012 approves the Bomet County Annual Development Plan 2023/2024 signed by Hon Nathan chairperson committee on finance and economic plan.
- ii. Two pursuant to standing order 201(5) subsection G of the county assembly Standing Orders, this county assembly adopts the report of the Committee on Finance and Economic Planning on the request for approval of an overdraft facility for salary and payroll management services by the county executive committee member for finance and economic planning. And pursuant to Article Two of the constitution of Kenya and section 142 of the Public Finance Management Act 2012 approves the request for an overdraft facility by the

county executive committee member for finance and economic planning for salary and payroll management system signed by Hon Nathan chairperson committee on finance and economic planning honorable Speaker I beg to table.

*(Hon. Member laid the Notice of Motion)*

### MOTION

**Hon. C. Langat (Boito Ward, UDA):** Thank you very much hon. Speaker. Pursuant to standing order 198(2) this county assembly adopts the report of the County Public Investment and Accounts Committee for the report of the Auditor General on the Bomet county car loan and mortgage scheme fund for the year and ended 30<sup>th</sup> June 2020. This is part of the continuation of the reports and therefore honourable speaker pursuant to the mandate of the county public investment and accounts committee and on behalf of the members of the committee, I beg to present the report of the Committee on the issues raised in the report of the Auditor General for the Bomet county car loan and mortgage fund for the period ended 30<sup>th</sup> June 2020. The audit objective was to ascertain whether the Bomet county car Loan and mortgage fund was administered as part of the provision of the Public Finance Management Act and fund regulations. The audit covered the Bomet county car loan and mortgage fund expenditure for the period commencing 1<sup>st</sup> July 2019 to 30<sup>th</sup> June 2020. Upon completing the audit, the Auditor General prepared a report touching all the following areas, a). a report or the financial statement. b). report on lawfulness and effectiveness in the use of public resources. c). report on effectiveness of internal control, risk management and governance.

Hon. Speaker, the committee report on the issues raised by the Auditor General for the financial year 2019/20, the County Assembly of Bomet received the Auditor General's report, which was subsequently tabled and referred to the County Public Investment and Accounts Committee. In dealing with the report, the committee invited the county executive committee members for finance and economic planning, the Office of the Auditor General, and other witnesses to respond to all the audit queries raised in respect of the financial operations of the Bomet county on the car loan and mortgage scheme fund for the year ended 30<sup>th</sup> June 2020. The committee held a total of three sittings to deliberate on the issues raised by the auditor general on 9<sup>th</sup> February 2023, the county executive committee member for finance and economic planning, the auditor general, and other witnesses to appear before the committee and respond to the audit queries for the year under review. The CECM for finance and economic planning was asked to explain in detail all the measures the county executive has put in place to ensure that public

funds are spent in compliance with the law.

During the sitting, the committee closely examined and hard evidence from the witnesses and also reviewed various relevant documents. The committee noted that the auditor general upon auditing the financial statements of the car loan and mortgage scheme which comprises of the statement of financial assets as 30<sup>th</sup> June 2020, and the statement receive payment, the statement of cash flows and the statement of comparison of budget and actual amounts for the year ended and summary of significant accounting policies and other explanatory information in accordance with the provision of article 229. of the constitution of Kenya and section 35 of the public audit act 2015 was able to express an opinion and this opinion Hon. Speaker is adverse. That mean is a third grade report honorable speaker. The Committee further observed that the basis of adverse opinion was presentation of financial statements that do not comply with Public Finance Management Act 2012.

#### *Committee recommendations*

The county executive must ensure that all loans advanced under Bomet County state and public officer mortgagee scheme fund are insured as required by existing regulations. The County government should take administrative actions against responsible officer who failed to follow the laid down procedures before advancing to the fund beneficiaries. The loans management committee and the executive committee should put in place measures to increase allocation to Bomet County Mortgage fund.

Key audit matters which were marked as unresolved prior years. Several issues were raised. However, the management has not resolved the issues or given satisfactory explanation for failure to adhere to the previous provisions of the Public Sector Accounting Standard; both to templates and the National Treasury and planning circular reference number AG4/163 folio 19 dated July/June 2020. The CECM in charge of finance indicated the financial report for the year 2018/19 was received on April 2022 and could not be factored in the year 2019 For the progress on follow up of audit recommendation, if other committed the Progress on the resolution will be presented to assemble soon.

#### *Observation*

CECM in charge of finance did not give any timeline on submission of the progress report to the assembly. To that the failure by management to resolve the issues raised in previous budgets posed a threat to the implementation and management of county mortgage and car loans. Therefore, committee recommendation, the CECM in charge of finance should submit to count the assembly the progress report on the implementation of the solution, public sector accounting

standard templates and additional treasury and planning circular. The number I've read the same should be forwarded to the committee within and notice honorable members should this should be forwarded to the committee within 14 days after the adoption of this report by an Assembly.

On the issues on irregular consolidation of two separate funds because the county government in their own wisdom, whether it was conforming to the law or not, they decided and come up with two separate funds and, as previously reported, the county assembly enacted to separate funds in 2018 namely Bomet county executives state and public officer car loan fund and the Bomet county mortgage scheme fund. Wide legal notes number two and number three respectively of February 2018. However, the management prepared and submitted for audit the consolidated financial statements for the funds for the year ending June under the regulations and the practice, if the two funds were distinct, each report should have come independently and not matching. So, it was against the law.

Hon. Speaker, as disclosed in note 2 to the financial statements, the statement reflects current caution of long-term receivable from exchange transaction of a balance of Kshs. 37 million as at 30 June, 2020. However, as previously reported, motor vehicles purchased through the scheme were not registered the vehicle was comprehensively registered with the borrower and the County Government of Bomet as required by regulation 8(2) for Bomet County car loan and state and public officer scheme fund 2018. No evidence was provided to indicate that the vehicle purchased under scheme were comprehensively registered.

#### Response

The CECM for finance indicated that all the vehicles funded by the scheme between the loanee e audit were yet to be collected from the National Transport and Safety Authority NTSA. and the County Government by the time of carrying out they are jointly registered and that the certificates were yet to be received from the NTSA. The CECM annexed the copies of the said logbooks in annex 5 for verification.

He also submitted that the fund keeps tracks of all the vehicles purchased under the scheme to ensure that they are comprehensively covered as proofed in annex 6.

#### Observation

All the concerns raised by the Auditor General are recurring issues that have not ben resolved by the accounting officer and the fund administrator. Samples of the logbooks submitted to the committee for verification are validly, vividly jointly registered with the County Government. However, the committee could not verify the 15 other logbooks that were submitted for verification despite the committee request for submission of the said documents. The issue is



marked as unresolved.

The committee recommended that the accounting officer takes administrative action against responsible officer serving in the administration of fund who failed to avail documents to the Auditor General during audit exercise within the next 60 days upon the adoption of this report by this Assembly.

As indicated that this is a continuation of this report will tricker the next course of action. I beg that we adopt this report so that the relevant committee will deal with and the directive that has been factored here, action can be taken. I request Hon. Richard Ruttoh to second.

*Hon. Richard Ruto Seconded*

*(Question of the Motion proposed)*

**Hon. Speaker (Hon. Cosmas Korir):** The Floor is now open and before you proceed, there are visitors at the public gallery from Mogogosiek Ward in Konoin Sub-County.

**Hon. E. Kirui (Kimulot Ward, UDA):** Hon. Speaker, I commend the committee for the good report they have elaborated before the Assembly. It is notable that there are a lot of flaws in the processes at the executive.

The Auditor General's Office should make a recommendation concerning the issues that have been raised year in year out. The fund manager who gave a single report is a sinister motive to play some monkey business with the fund.

The previous findings have never been resolved and they look like they will reoccur. A tougher action needs to be taken against the fund manager. I laud the committee and support the report.

I urge the members to support so that we ensure that the public funds are used prudently. Thank you.

**Hon. E. Kipkemoi (Mogogosiek Ward, UDA):** Hon. Speaker, I welcome the members of the public from my ward. I thank them for coming and I welcome you to follow the proceedings of this Assembly. At the end of the day, they will take a good report to the outside there. Once again, you are welcomed.

I rise to support this report. This report as indicated left us with a lot of questions that needs to be actioned by the executive. My worry is on the risk management policy. The loan that was advanced to the late Governor, though it was written off, the due process was not followed. That tells us that the future of this fund is not secured. If no action is not taken, at some point, we may not have funds in this kitty. Therefore, I wish that those mentioned in this report so that we never witness the same because looking at the report you will realize that there are many unresolved issues and many questions that have been raised by the auditor general. The committee on PIC/PAC has done a good job and the only remaining thing is the implementation of this report



or policies that needs to be done so that what has been reported here is aligned and action taken so that adoption of this report will assist us as the assembly to effectively oversight this department. I support the adoption of this report. Thank you Mr. Speaker.

**Hon. Speaker (Hon. Cosmas Korir):** Thank hon. Member from Mogogosiek. Hon. Kiprotich from Chepchabas Ward proceed.

**Hon. W. Kiprotich (Chepchabas Ward, UDA):** I also rise to support the report that has been given by PIC/PAC chair Hon. Charles Langat who is representing Boito ward. Before I proceed, allow me to join Hon. Ernest Kipkemoi of Mogogosiek in welcoming his constituents who have made a maiden visit to this county assembly as public and as an assembly we are open and always allow people to join us and follow the proceedings of the Assembly as much as they wish so that they can know the issues we are discussing about.

Regarding the motion on the floor I have followed hon. Charles going through it and I am glad that in what was being discussed I am a beneficiary and him too and other many honorable members and staff of this county assembly.

It is only that when some negative aspects are mentioned everywhere where issues to do with finances are involved. There is always a believe that maybe there is no prudent use of those particular finances. I have heard Hon. Erick mention that we need to be extra careful which is indeed true and it is only that I did hear the chair mention about any loss of funds if there were any negativity is to do with documentation.

Moreover, even coming to this particular Assembly; the name Hon. Member is earned; it is not given. All the Hon. Member here earned their title. We will always be named by those titles and will remain forever. There is only the aspect of humanity in us.

If we even sample ourselves when we are accessing mortgage scheme none of us can reach 100% description of what is required and that is what hon. Charles was saying. The better part of it that has been mentioned is that there is no loss of funds to that particular part. Let it be known public wise that car and mortgage scheme is for all state officers. Let it not be construed to only mean that members of county assembly are the only one who are earning that. I am very happy to learn that we were able to ask the money for and many of us were able to use it. Mr. Speaker the documentation that is required sometimes we give up to 90%. The extra 10% that we do not give comes up with that particular issues that hon. Charles Langat was mentioning.

The car loan fund is we are told this is called car loan and we are told to buy cars of particular Cubic Centimeter (CC) but sometimes we don't. We go for vehicles of lesser CC or a higher. When given a mortgage it is meant for construction of your house but if we visit homes, maybe they were not built. But the beauty of it is no funds were lost. Maybe the funds were used by the member for a different purpose. Otherwise, I support the report and I applaud the committee for coming up with it. Thank you.

**Hon. Speaker (Hon. Cosmas Korir):** Thank you, Honorable Richard.

**Hon. R. Ruttoh (MCA Chemaner Ward, UDA):** Thank you very much Mr. Speaker sir for giving me this opportunity to contribute on what my able chairperson, Hon. Langat has tabled. Mr. Speaker, the report given by the chairperson is exactly what we discussed. And as it has been said by Hon. Kiprotich, the only issue which the committee saw it necessary was that that the manager in charge of this fund should be keen on the documentation and also to ensure that what they are giving out to the state officer are public funds. I am very proud today Mr. Speaker because as we were discussing on this very important report, we have taxpayers within us which I believe when they will be going home, they will be very sure that this honorable Assembly is very concerned on what they give out and how they are spend. I would like to say that the committee members on PAC/PIC are very keen. Without being proud, I would like to say that this is a committee that is very keen on what they are doing and on what they are discussing. I believe this report will be adopted as it has been laid by the chairperson. Otherwise, I support the report Mr. Speaker. Thank you.

**Hon. Speaker (Hon. Cosmas Korir):** Thank you Hon. Richard

*Question put and agreed to*

#### **ADJOURNMENT**

**Hon. Speaker (Hon. Cosmas Korir):** I want to request the members of the County Assembly Business and Rules Committee to meet immediately after this session in the speaker's office.

This Assembly stands adjourned until tomorrow at 9.30 a.m.

The Assembly rose at 3:30 p.m