



## COUNTY ASSEMBLY OF KISUMU

### **THE HANSARD**

#### SECOND ASSEMBLY – THIRD SESSION

Tuesday, 04<sup>th</sup> September, 2019

House met in the Main Chamber at 02:30 a.m.

(The Temporary Speaker (Hon. Eric Agolla) in the Chair)

#### **PRAYERS.**

**The Temporary Speaker** (Hon. Agolla): Hon. Members. This is a wonderful afternoon and would like to welcome you all to this afternoon session of the County Assembly of Kisumu and request Madam Clerk to take us through the Order Paper of this afternoon.

**The Temporary Speaker** (Hon. Agolla): Next order!

#### **COMMUNICATION FROM THE CHAIR.**

**The Temporary Speaker** (Hon. Agolla): Hon. Members, I would like to make the following communication which is particularly to the Members of the County Budget and Appropriations Committee that they are scheduled to have a Special Meeting immediately after this afternoon session. So, you are hereby advised to remain behind after completion of today's plenum session.

Hon. Members, I equally want to invite Member of the Fourth Estate who are in the House to please feel welcome and enjoy our debates.

Finally, please allow me to bring to you attention that the Assembly has a forum in the Whatsapp Group App and other forums in the Social Media platforms and through the communiqué from

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the Communication persons of the Assembly that the churning and access of Order Papers from today will be accessed from our various social media platforms. Kindly endeavor to visit our website because we are soon going paperless so be informed accordingly.

**The Temporary Speaker** (Hon. Agolla): Next order!

### STATEMENTS

**The Temporary Speaker** (Hon. Agolla): Yes Chairperson, Budget and Appropriations.

**Hon. Ogaga:** Thank you Mr. Speaker, I rise to seek statement regarding Staff Salary Payments of the Executive from the Chairperson of Finance, Trade, Cooperatives and Enterprise Development Committee in accordance with the provisions of Standing Orders No. 41 (2) (b).

Mr. Speaker, I would like to know the following;

1. How much was borrowed by the Executive to pay for Staff Emoluments?
2. Interest Rate for funds borrowed for payments of number one above?
3. How much was paid for Gross/Net Salaries and for which months?
4. Why was the County Assembly consent not sought as stipulated in section 142 (1) the PFM Act, 2012.

Thank you.

**The Temporary Speaker** (Hon. Agolla): Fair enough. Hon. Okiri, I can see you on your feet. Please cite which Standing Orders you are rising on?

**Hon. Okiri:** On a Point of Order. Thank you Mr. Speaker. With the leave of this House and because this is a weighty matter because these are matters that touch on finances. I therefore request that if you allow this House to deliberate on this pertinent issue even for 30 minutes it is then with your discretion that you will decide which Committee to commit it to.

**The Temporary Speaker** (Hon. Agolla): The Hon. Member for West Kisumu is seeking the leave of the House but unfortunately you have not identified a seconder to that proposal...

**Hon. Okiri:** Mr. Speaker, I implore the Leader of Majority to second this motion?

**Leader of Majority** (Hon. Onyango): (Bows)

**The Temporary Speaker** (Hon. Agolla): Hon. Members, while citing Standing Orders No. 41, a Hon. Member may seek the Leave of the House to enable them deliberate on matters regarding statements, So, it is in order that to grant the House Leave as proposed by the Hon. Member for

West Kisumu which was seconded by the Leader of Majority. I therefore open the floor so that the House can debate on this matter so that they add weight on the Statement sought by Hon. Ogaga so that the Committee which the Statement will be committed to can handle it based on the contribution of Members in combination with what has been sought by the Member.

**The Temporary Speaker** (Hon. Agolla): Hon. Member, Kolwa East.

**Hon. Steve:** Thank you Mr. Speaker. I am inclined to believe that the Hon. Member for West Kisumu is not properly dressed in this House and I believe that he is naked which is against the provisions of the Standing Orders.

**The Temporary Speaker** (Hon. Agolla): Hon. Member for West Kisumu it is only yesterday the Members resumed session and for the last one month and it is not proper to be naked. So, I order you to go out and come when dressed properly and this applies to all the Member of this House who are not in the proper dress code.

**The Temporary Speaker** (Hon. Agolla): Hon. Member, North Kisumu.

**Hon. Oraro:** Thank you Mr. Speaker. I wanted to contribute to this statement but realized that it was directed to the Chairperson Cooperative, Finance, Trade and Enterprise Development Committee.

Mr. Speaker, while looking at the Standing Orders under the Second Schedule Orders No. 193 on Sectoral Committees, then I looked at the functions of the above Committee and it is stated that the Committee deals with all matters to do with Cooperative movements, micro-finance, Empowerment of Registered Women and Youth Groups, Insurance of Proposed Loans and many others.

Mr. Speaker. It is still not clear to this House whether some funds were borrowed or not. This is because in query number one on how much was borrowed by the Executive to pay for Staff Salaries. Mr. Speaker, is it a grapevine or do we have facts that some funds were borrowed. If it is a rumour, then I believe that it is only in order that the Committee establishes as to whether funds were borrowed or not. Once we are aware that funds were borrowed, it's when we can talk of the Interest Rates and what these funds were meant for. Mr. Speaker, as at now in my opinion we are not aware whether funds were borrowed or not unless we are provided with evidence as per the provisions of Standing orders No. 89 stating that we have facts that funds were borrowed with how much, the interest that will be incurred otherwise it might be construed that we are discussing a rumour in the confines of the plenary. Mr. Speaker, in my opinion I want to oppose what Hon. Okiri suggested that we deliberate this issue and let it be discussed with the relevant House Committee because I know there is a process of doing it and because we are not aware

that this was done, then only if we see it in facts like the Quarterly Reports then we can ask such questions. Thank you.

**The Temporary Speaker** (Hon. Agolla): Fair enough. If you read the provisions of Standing Orders No. 193 (5) (a) (b) and (c) you will be informed accordingly and I am inclined to believe that we have not committed the Report to any Committee because those were the prayers of the Member who sought for that Statement so, the Chair will be convinced by the outcome of the debates that emanate from the House and decide which Committees to direct the statement.

Hon. Member, if you look at Orders No. 193 (5) (a) (b) and (c) it is quite in order to direct this Statement sought by the Hon. Ogaga to that particular Committee which they are required to inquire and report back to this House. So, the correct Committee is the Finance, Trade, Cooperatives and Enterprise Development Committee and it is the Committee according to its mandate is required to investigate into matters pertaining Finance and report back to this House.

**Hon. Oraro:** On a Point of Order. Thank you Mr. Speaker. My point of departure is in Order No. 89 and is based in what I presented in my submission. I read that Order because it deals with proposed laws which touches on the Executive. Mr. Speaker, the provisions of Standing Orders No. 89 requires us to have facts on what we are presenting before this House.

Mr. Speaker, I am stating that as at now, the statement that is being sought by the Hon. Ogaga is a rumour because we cannot substantiate whether there was a loan borrowed or not....

**The Temporary Speaker** (Hon. Agolla): Hon. Member for North Kisumu. Please allow me to inform you that the Hon. Member is seeking for a Statement and it is not a Motion and a Statement is like an inquiry. She wants to dig deep so that she finds out under Order No. 89.

**The Temporary Speaker** (Hon. Agolla): Hon. Members, I can see Members up on their feet, but, if you look at the seniority and the minority wing of the House I accord this opportunity to Hon. Ogutu.

**Hon. Ogutu:** Thank you Mr. Speaker for according me this opportunity to contribute to this statement.

Mr. Speaker, I am in concurrence with this statement sought by Hon. Ogaga because I believe that we are all residing in Kisumu County and on that note I believe that we are the right people responsible for matters to do with finances in Kisumu County. I believe that it is in the public domain that the Executive approached banks and borrowed funds. We live with staff working in the Executive and it is true that these workers were paid and we are all aware that since they were paid and it is in this Assembly that powers are given to approve any borrowings from the

banks. As we stand today the appropriation Bill, 2019 has been referred back to the House with a Memorandum by the Governor of Kisumu County, meaning in simple terms that we as a House have not approved the Budget Estimates FY 2019/2020...

**Hon. Ogutu:**Hon. Ogutu, I would request that you resume your seat so that I offer you advice. Before I offer advice to the Hon. Member as he takes water, let me take this opportunity to recognize the presence of Hon. Jayandra from Nairobi County, the Chairperson, Justice and Legal Committee of Nairobi Country Assembly and your colleague from Westlands. Please feel most welcome and enjoy our debates and it is fortunate that you popped in when we were discussing Legal Issues and I believe that you will learn from our debates.

**Temporary Speaker** (Hon. Agolla): I want to take this opportunity to welcome and recognize the presence of our Honourable Member from Nairobi, Hon. Jehandra Valde who is the Chairperson of Legal Committee. Feel welcome and enjoy our debates. It is much in order that you came in when we are discussing legal issues and I hope you will learn from our debates. Yes Hon. Ogutu, I want to advise that the matter sought by Hon. Judith Ogaga is in the Public Finance Act. Let us talk about the borrowing and not the budget. Did the Executive sought the permission to do the borrowing as it is enshrined in the Constitution that such action must approved by the House. Please confine yourself to the statement as sought by the Honourable Member. I hope you are informed.

**Hon. Ogutu:** I am informed Mr. Speaker but I was taking you to the genesis of what informed the borrowing. We know very well that we have not passed the budget.

**Temporary Speaker** (Hon. Agolla): Hon. Ogutu what you are saying will make part and parcel of the statement that will be taken to the committee. Let us not deviate from the debates. We are aware of the budget stalemate and don't mix issues.

**Hon. Ogutu:** Thank you Mr. Speaker.

**Temporary Speaker** (Hon. Agolla): What is it Hon. Steve Owiti?

**Hon. Steve:** Thank you Mr. Speaker. I want to subscribe to the school of thought that was advanced by Hon. Elisha Oraro that we are not aware as an Assembly that there was any borrowing by the Executive. We are aware and as Hon. Ogutu has put it that there is part of money that was paid as salary and there are banks and it is in the public domain that the Members and staff have not earned their salaries. Reason being that the kind of arrangement that was done and there was no borrowing but this is an overdraft that is given to individuals who have accounts with those banks.

Mr. Speaker, I want to inform this House be it as it may there has never been any borrowing and the law is very clear. You cannot borrow any money from an institution without the approval of the House. I know it is a normal practice for a bank to advance its customers kind of overdraft facility that can be recovered within a specified period of time. I therefore would advise that we as the Members of this House would stick to discussing issues that are within our mandate.

As Hon. Oraro has put we are discussing something that is rumours but in an event that anybody borrowed money without the approval of the House then it will be in the records and it will appear before us. Let us not put this matter to unnecessary discussion because it will put this House to disrepute.

**Temporary Speaker** (Hon. Agolla): Hon. Ogutu I thought you had completed your statement. I will grant you two minutes.

**Hon. Ogutu:** I think we are reading from the same page. A statement has been brought to this House whether the Executive borrowed some money or not. If in any case it is true then some investigations has to be done. Thank you Mr. Speaker.

**Temporary Speaker** (Hon. Agolla): Hon. Seth Okumu.

**Hon. Okumu:** Thank you Mr. Speaker. I want to disassociate myself with statement sought by the Budget Chair. It has been mentioned by the former chair of Budget and Member of North Kisumu that with the information we have been given right now is the truth. I want to encourage the Chair of Budget to seek more information.

The committee she has sought the statement from does not have such mandate. As it stands right now we don't have facts and we cannot investigate something that is personal. There is no documentation confirming that money was borrowed and yet we are asking how much was borrowed and what is the interest rate? If the Chair of Budget really wanted the resolution of the Assembly to support her statement then she would have gone further to inform the House.

I believe as an Assembly we have much better things to discuss than discussing rumours. Remember, the budget was returned and here we are committing ourselves to discussing rumours. For those reasons, I disassociate myself with the statement. Thank you.

**Temporary Speaker** (Hon. Agolla): Which committee are you proposing to look into the matter?

**Hon. Okumu:** Thank you Mr. Speaker. I don't want to propose any committee but it is your discretion that given the roles of committees in our Standing Orders, the Finance Committee

does not have the mandate to look into whether the money was borrowed or not. Thank you Mr. Speaker.

**Temporary Speaker** (Hon. Agolla): Very well. Honourable Members, I hereby take this opportunity to commit this kind of Statement sought by Hon. Judith Ogaga..... What is it Hon. Kanga?

**Hon. Kanga:** Thank you Mr. Speaker. Ordinarily the seat of the Leader of Majority should always be occupied and I am now giving my contributions with the authority and powers of the Leader of Majority.

**Temporary Speaker** (Hon. Agolla): Hon. Kanga be informed that the Deputy Leader of Majority is in the House so there is no vacuum.

**Hon. Kanga:** But she is not occupying that seat right now.

**Temporary Speaker** (Hon. Agolla): Once she is in the House then there is no power vacuum. What is it Hon. Steve?

**Hon. Steve:** Mr. Speaker, is it in order for the Honourable Member for Market Milimani to stand before this House and declare that the seat of the Leader of Majority is vacant without this Assembly declaring that such vacancy exist. Is it also in order for the Honourable Member to leave his seat to go and sit in the position of the Leader of Majority? Is something happening that we do not know? Thank you.

**Temporary Speaker** (Hon. Agolla): Honourable Member for Market Milimani, despite being a member of ODM and the Party Chairman in the County please confirm to us if you have been elevated to the position of the Leader of Majority?

**Hon. Kanga:** Thank you Mr. Speaker. The seat of the Leader of Majority is not vacant but it was never occupied. Traditionally, you do always order us to take the seat or occupy it.

**Temporary Speaker** (Hon. Agolla): Only when the Leader of Majority is not in. What is it Hon. Deputy Leader of Majority?

**Hon. Pamela Odhiambo:** Thank you Mr. Speaker. The Leader of Majority is out to respond to the call of nature. So let the Member speak as Hon. Kanga and not as the Leader of Majority because I am present.

**Temporary Speaker** (Hon. Agolla): Hon. Kanga there was a concern from the Hon. Owiti which you have not addressed. Please clear the air or apologize.

**Hon. Kanga:** Thank you Mr. Speaker. I am always very composed even when some provocative gestures are directed to me. I want to declare that I am not the Leader of Majority but I am a Member of this County Assembly representing Market Milimani Ward.

Mr. Speaker, allow me to contribute to the statement that was sought by Hon. Judith Ogaga concerning the said issues. At times it is good to behave as a Member of County Assembly and most importantly represent a ruling government. This statement shows that we are behaving as if we are in the opposition. I am always very conversant with whatever is taking place in the government and I know Hon. Steve Owiti doesn't this because he always behave as if he is in the opposition.

Because he always behaves as if he is in the opposition by bringing unnecessary point of orders when a person from the Government is contributing.

**The Temporary Speaker** (Hon. Agolla): What is it Hon. Steve Owiti?

**Hon. Steve Owiti:** Thank you Mr. Speaker sir, I want to believe that the Hon. Member for Market Milimani ward is aware of Article 175 of the Constitution of Kenya which declares that there shall be a County Government consisting of the Executive and the Assembly. It is very wrong for the Hon. Member to come to this floor and insinuate that he has his own County Government apart from the County Government of Kisumu. I think that the Hon. Member has all the rights... maybe he would be informing us of what s happening at Swan Centre right now that it is being surrounded and not talk about a Government that everybody is part and parcel of.

**The Temporary Speaker** (Hon. Agolla): Yes Hon. Kanga, are you informed by Hon. Steve Owiti?

**Hon. Kanga:** Mr. Speaker, Hon. Steve Owiti will never in his represent an urban set up but will ever be compounded in the rural society. By him talking about the issues of Swan Centre is not bringing any sense. The issues which he is talking about are beyond his control because...

**The Temporary Speaker** (Hon. Agolla): Hon. Members, the Leader of Minority is on his feet.

**The Leader of Minority** (Hon. Philemon Ojuok): Mr. Speaker, I just wanted to know if Hon. Kanga is insinuating that rural set ups are lesser places.

**The Temporary Speaker** (Hon. Agolla): Before I give you an opportunity, it is procedural that when a Member is seeking for information, he/she should be given time to respond to then we give a direction before we give another Members. Yes Hon. Kanga.



**Hon. Kanga:** With due respect the Leader of Minority; I did not say that the rural wards are lesser but they are equal. I told my brother who represents me back there in the rural area that he will never represent an urban centre in his life. That is very clear because we come with him from the same village. He decided to represent the rural ward and I decided to represent the urban ward this is because he does not understand the dynamics of cosmopolitan.

**The Temporary Speaker** (Hon. Agolla): Hon. Kanga we did give you an opportunity to respond to the concerns of Hon. Philemon and you have done it. Hon. Steve Owiti is on his feet to also inform the House.

**Hon. Steve Owiti:** Thank you Mr. Speaker sir, it is very unfortunate that you want to reduce this House to a level of discussing clans and villages in the rural set up. I am not aware if the city boundaries changed in the recent past and the last time I checked my ward which is Kolwa East ward is in Kisumu city which I believe it is one of the 14 wards which represents Kisumu city and I am surprised that my brother Hon. Kanga came to this House and he is now saying that it is only Market Milimani ward that is in the urban set up.

Mr. Speaker sir is it right for the Hon. Member to insinuate that whatever contribution I had asked him about Swan centre is not making any sense? I may not be representing the so called Market Milimani ward that he believes is so urbanized but I am perturbed by the rate at which his constituents are now suffering. If Swan centre is going to go down then I as a Member of this House have to ask and if he is not going to talk about it, then I don't know what to say. I would rather represent Kolwa East ward which he said is rural than represent Market Milimani that is in an urban set up and is experiencing those problems.

**The Temporary Speaker** (Hon. Agolla): What I can pick from the concerns of Hon. Members is that is it in order for Hon. Kanga to use none-seneschal terms.

**Hon. Kanga:** Mr. Speaker, it is not in order and I would like to apologize unconditionally if I said so. Hon. Steve Owiti is talking about the issues of Swan centre which I think we are not discussing here. As member representing Market Milimani ward I believe to say that Swan centre is in Railways ward. Hon. Arao is in a position to address those issues. Mr. Speaker, the issues of demolitions was addressed by the Governor yesterday and was posted in the social media. That is what I have been doing since morning addressing those people concerning the issues of demolitions.

Mr. Speaker let me confine myself to the issues of borrowing by the Executive as far as staff salary is concerned. As a person who is well conversant with what is happening in the Executive as you all know. Some of you are behaving as if they are in the Minority Party though they are in the Majority Party like Hon. Steve Owiti who has decided to be in the Minority for reasons he

knows better. I want to categorically state to this House that what was done by the Executive to pay staff salaries, we as the committee will dig deeper. The Executive just wrote to the Banks on the basis of good will so that they could advance salaries to the staffs aware that the Budget was passed and it was brought back by the Governor with the memorandum which was read yesterday. Hon. Steve Owiti worked in the previous County Government as a senior Government officer knows the procedure of advancing salaries and he highlighted those issues as a Member from the Minority when he was contributing. So on the basis of saying that money was borrowed does not arise here.

**The Temporary Speaker** (Hon. Agolla): Yes Hon. Steve Owiti. Which Standing Order are you rising on?

**Hon. Steve Owiti:** Mr. Speaker, the Hon. Member for Market Milmani insists on referring to me as a Member of the Minority. I am a Member of ODM which stands for good Governance and ODM believes in democracy and freedom of speech. I want to believe that any Member of ODM is given a chance to say what they think is right and to profile the Members of the House that they are Members of the Minority simply because they speak matters that are contrary to...

Mr. Speaker sir, between 37 and 3, which is the minority?

**The Temporary Speaker** (Hon. Agolla): Hon. Steve you are misleading this House and kindly come clear on the figures that you are referring to.

**Hon. Steve Owiti:** Mr. Speaker I remember hearing Hon. Kanga saying that he had voted and they were 3 which they say they are the Majority. So I am only asking him in open language that between 37 and 3 which is the majority?

**The Temporary Speaker** (Hon. Agolla): Before Hon. Kanga responds to that; I want to inform you that it doesn't matter how you vote which does not inform the minority and the minority Party. It depends on the opinion and the views of a particular business in the House. ODM is the Majority Party in this House and that is the record that the Chair has. Yes Hon. Kanga.

**Hon. Kanga:** Mr. Speaker from the records disclosed I have never stated anywhere in my speech how people voted in this House. The freedom of speech in ODM is based on the ideals of ODM. When you go ultraist with the ideals of ODM like Hon. Steve Owiti then you seize to be a Member of ODM and I state categorically as the Chairman of ODM Kisumu Central. Mr. Speaker I want to finalize by saying that there is nowhere in the records where the County Government of Kisumu borrowed money to pay staffs and the committee will therefore attest when they will be inviting the relevant officers from the Executive to highlight on those issues. Thank you.

**The Temporary Speaker** (Hon. Agolla): Yes Hon. Oraro.

**Hon. Oraro:** Mr. Speaker I would like to inform the Members of section 142 of the Public Finance Management Act which states that;

*“The County Assembly may authorize short term borrowing by County Government entities for cash management purposes”*

In other words even if the County Government borrowed which to me is still a rumor, then the Public Finance Management Act provides very well that it may and not shall. Thank you.

**The Temporary Speaker** (Hon. Agolla): Very well Hon. Members I want to stand by my ruling and all these contributions and submissions add o what the Chairperson Hon. Ogaga was asking for. I hereby direct this statement to the committee on Cooperative, Finance, Trade and Enterprise. They should work and dig dip into matters which were sorted and report back to the House within 14 days;

1. How much was borrowed by the Executive to pay for staff salaries
2. What is the interest rate for the money borrowed in or above
3. From the borrowed money, how much was paid for gross salaries and net salaries and for which month
4. Why was the County Assembly consent not sort for the same

Next Order!

### ADJOURNMENT

Hon. Members there being no any other business to transact, this House stands adjourned to tomorrow Thursday 5<sup>th</sup> September 2019 at 2.30 p.m.

*(House rose at 3.30 p.m.)*

*Addendum*

**Hansard Reporter**

*Zablon Otiende – In-charge*

*Edward Odanga – Reporter*

*Fanuel Okode - Reporter*