

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF KISUMU

HANSARD

SECOND ASSEMBLY

Wednesday 6th December, 2017

The House met in the Main Chamber from 9:00 a.m.

[Temporary Speaker (Hon. Hon. Victor Rodgers) in the Chair]

PRAYERS

Temporary Speaker (Hon. Victor Rodgers): Yes Madam. Clerk, can you please take us through the order paper of the day.

COMMUNICATION FROM THE CHAIR

Temporary Speaker (Hon. Victor Rodgers): Honorable Members, I do have this communication to make to you. You are required to take and fill a declaration of income, assets liabilities form from the Human Resource department.

STATEMENTS

Temporary Speaker (Hon. Victor Rodgers): What is it Hon. Seth Okumu.

Hon. Seth Okumu: We have repeated over and over about the situations in this room in the afternoon, we need AC systems or fans. The fans only cost 3000 shillings. We also need WIFI so that we can be productive.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Arao.

Hon. Arao: There is also this norm of punishing us with a lot of papers. I think the world has gone to a technological level whereby we use tablets. We should be bought these tablets so that

the Assembly can forward these things to us through our emails prior before we come to this House so that we cannot carry these papers with us every day to our offices. This is a waste of resources.

NOTICE OF MOTION

AD HOC COMMITTEE REPORT INVESTIGATING THE CONDUCT OF THE MEMBERS OF THE KISUMU COUNTY PUBLIC SERVICE BOARD

BY

MAJORITY LEADER HON. KENNETH ODHIAMBO

Temporary Speaker (Hon. Victor Rodgers): Honorable Members let us resume from where we stopped yesterday and we had allocated ourselves to take only three minutes and also let us avoid repetition. So Hon. Caren Muga can you please proceed.

Hon. Caren Muga: I stood to support this adoption of this report before us. When you look on matters to take into account during appointments they were not met. Referring to page 11 on the contribution of Raphael, I found out that everything which was done by this board was not legal. The second part of it was on page 12 looking at the contribution of one of the person who was interviewed. You will find out that there were some illegalities taking place in this board. This is why I support the adoption of this paper so that the officers. Thank you, Mr. Speaker.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Miruka.

Hon. Ogutu: I rise to support this motion. Let us give our governor a lease of life because we know very well that the board which we are about to disband was appointed by the previous government. For our Governor to work effectively we have to give him the people who can share his dreams with him. I think it is good for the Honorable Members to support the report which has been brought before this House. We know the procedure which is supposed to be followed to disband this board. If we go into the Kenyan constitution we will find out in chapter 251 where it states how these people are supposed to be removed. I believe that the Ad Hoc committee has followed the right procedures because everything which was brought before them is here in this report. On that not I support that the service board be disbanded as constituting.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Agolla.

Hon. Agolla: I stand to support the adoption of this report. After reading through the report I do concur and support that the board in place has violated the dictates of the constitution. Despite that, I believe in the governance of Prof. Nyong'o, and I also believe that there is no way he can execute his dreams without a functioning board because this board is adamant and is not giving

its best in the aspiration of the Governor of Kisumu. Therefore I support that this board be disbanded and we have a new board put in place to spear head the progress of the County now that we are aware that new CEC have been appointed and that we also need new chief officers to be recruited and they must pass through the board. As leaders who are elected from various wards we do expect this Government to deliver and they cannot deliver without the chneif officers. So we need to adopt this report and pass it and make sure that the board members who are put in place do abide by the law. There are other places that these people being removed can serve.

Temporary Speaker (Hon. Victor Rodgers): Very well Hon. Agolla. Yes Hon. Ogaga.

Hon. Ogaga: I stand to support the adoption of this report because if you go through the report you find out that some of the powers given to the board are to establish or demolish office and also making appointments. This means that we should have a board that will discharge its duties with a lot of integrity which has not been seen in the current board. We want the work done the right way and working independently. I support the motion and feel that the board be disbanded so that we find a board that will do its mandate coherent to the dictates of the constitution.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Miruka.

Hon. Miruka: I rise to support the motion. I would humbly take the opportunity to say that we really want our county to progress and for that we would not wish to give our Governor hard time. I looked at the document but there is one thing that is important in the constitution that I did not see. I only saw the comments from those who were invited but did not see the comments from the people we are discussing who are the public service board members. Public participation is a key factor so we should be discussing something so that we may not fall into any trap. We must make sure that any other step is taken into control. I am saying this because some time back in October there was a bit of court injunction that was temporarily stopping this investigation. We are guided by law I we did not want anything that would interfere with this investigation.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Khan.

Hon. Khan: I rise to support this motion. As you note that yesterday I requested that we do adjourn so that we can study this document. We have gone through this report and noted that this needs to be approved because the County has stagnated. The public service board as constituted has actually made the county staffing and other sectors not to be fully implemented. If you look at the report on page 17, there were additional 8 positions that were created by the board which were contrary to section 62(2) of the county government Act. The senate report was petition in 2016 and went further to recommend that the Ethics and anti corruption commission to undertake the audit. To date, as virtue of being an Honorable Member, I have no clue or any information pertaining to this that any action was taken regarding the same issue. The August House has its

own rules and authority which must be authenticated. And in fact the implementation should be done especially when the senate gives its verdict which is our senior governing body for devolution. Mr. Speaker, it is sad to note that nothing was done. We were here and we never approved those positions. If you go back and look into the report through the confessions made by the groups of people who had given their memorandum through oral, clearly shows that there was a breach in the running of the Board. If you look at the appointment made, the vacant positions were filled by people who were not coming from the dominant community in the County which is very much sited on page 8(e). Further to represent, I being the minority person representing people even in the last August House, the recruitment of the minority was not there and if it was there it was for the County drivers. In fact the drivers had been employed when they were advertising. This issue was brought into this House and discussed and eventually I was able to convince this House and understand that the minority were also supposed to be employed. I was able to get one of the minority people to be employed but unfortunately up to date I was not able to know if this person was employed because he never came back to me. This issue of employment has really been letting us down and the other issue is that the cronies of Members of the County Assembly either by proxy or by direct contact have been making their own progressive insinuations to make sure that employment is gotten through the back door. It is not right for us as members of the County Assembly or any other senior member to converse to make sure that employment is not done appropriately. Let this board go and we should get a board that we are going to scrutinize and vet to make sure that we acquire the fruits of devolution which will go around and employ people of credible character. As I was seeing Sarah Serem going around and saying that the wage bill has ballooned by 65% in a year. We need credible people that can implement what is required out of their experience. With those remarks, I rise to support this motion fully so that this County can progress and we give the Governor ample time to do their work. Service delivery is really delaying even in the rural areas.

Temporary Speaker (Hon. Victor Rodgers): Very well Hon. Khan. Yes Hon. Otura.

Hon. Otura: I rise to support this motion having gone through this comprehensive report finding appropriate to give it my full support. It is true that Kisumu County as it is constituted now is lagging behind because of this public service board. The submissions from the members of the public are evidence enough to prove the incompetency of this service board. We in the Assembly have to work hand in hand with the Executive. It is us who legislate and there after the Executive to implement. The implementation bit of it is what is entailed here. This has stagnated because of this public service board. Having tasked our competent members of this House in view of what is entailed here to sit on the Ad Hoc committee and giving us this comprehensive report, if we go through this report, we need not to have any objection at all. Going by what is in this report for example in page 17, a board which refuses to do what is required by law. I find it prudent to disband this board and reconstitute a new board as it is required by law. The removal as in the constitution of Kenya in article 251 is very clear stating the process and we need not to revisit that. Kisumu city as you go by the observations made by this committee, noted that the

constitution of Kenya promoted Kisumu Town to a city status. If you go through section 60 of the urban city act, you we really find it correct to disband this public service board. How can a city run without a city manager? It is like this was a corrupt means of promoting our city to a city status, which is not true. The contrary is that somebody sitting in the public service board fails to appoint a city manager so that our city can be managed in the same way other cities are being managed and being promoted. I find it prudent to immediately disband this public service board as currently constituted to make this city be what is expected of it. Mr. Speaker, if you check on the recommendations and conclusion of what the Ad Hoc committee did, we really have to disband this Board. Thank you.

Temporary Speaker (Hon. Victor Rodgers): yes Hon. Arao.

Hon. Arao: Mr. Speaker, I also stand to support this because you know employment is now a basic requirement for our people. There are high percentages of our people who are not employed. And if this Board that can not consider a lot of requirements when hiring our people especially the drivers, and in all other categories in our County. Majority of our people are jobless and all our hopes lies with this Board to continuously absorb our people in a manner that is very fair to the entire county of Kisumu. I know there are people who have already benefitted from this Board through their acts of corruption as contained in this report; we cannot victimize them because they already have their cakes, but this people on the basis of this report must carry their own cross. They must be responsible and the only thing they should have done is to step aside and to allow a new team to come in so that we can move ahead. Mr. Speaker, it is important to note that even if were not to pass this report, already there is no good will from the People of Kisumu County and when there is no good will, there will never be harmony and when there is no harmony, there will be a lot of bickering suspicion, cooperation then, we will not achieve much, I would therefore like us to pass this report to save the situation to allow a new team to come in so that we can allow this County to run and to move forward. Thank you, Mr. Speaker.

Temporary Speaker (Hon. Victor Rodgers): Thank you. Yes Hon. Olale

Hon. Olale: Thank you Mr. Speaker, I think I am of a different opinion to what is being discussed today. I don't want to say that am opposing the motion and I don't want to say am supporting the motion, but I want to give light to this motion. Mr. Speaker, as much as members are supporting that the Board be disbanded, those supporting are looking at one side of the coin. I would urge all members to look at both the tail and the head of the coin.

1. I would like to commend the good work the committee did, I heard that there was a court injunction stopping the Ad hoc from proceeding with this enquiry but the Ad hoc Report has not mentioned that in the report.
2. As much as we are supporting the disbanding of the Board, We should look at the long and short comings of the same. We will have court issues that the Assembly obeyed a

court order and members should have that in mind. How will we handle this as an Assembly?

I have a suggestion. This report is clear evidence that this Board should be disbanded. I would suggest Mr. Speaker that against this report, The Ad hoc committee should use reinforcement theory to allow the Criminal Investigation Department to investigate each and every member of the Board. When this is done through the CID they will come out with a report to show that the Board members have been investigated and should be prosecuted. That is my contribution on the same and it is a reality that we will all have to face.

Temporary Speaker (Hon. Victor Rodgers): Thank you. Hon. Seth Okumu

Hon. Seth Okumu: I rise to support the report written by the Ad hoc Committee on the disbandment of the County Public Service Board. Mr. Speaker, I would like to start by correcting my brother Hon. Olale that the deliberation of this House is way more superior to the report of the CID and investigations done by this House supersedes those done by the CID. Mr. Speaker, the Ad hoc Committee did their best, They gave opportunity to the County Public Service Board members to appear before them and defend themselves just like it is required in a fair trial but they opted to go to court and get a court injunction. That does not stop the committee from proceeding with the hearings. It is clear from the report that they have contravened article 251 of the Constitution. This article clearly states that the County Public Service Board can be disbanded.

Mr. Speaker, we don't need any other report, we need 75% of the Members for the County Public Service Board to go home. So Mr. Speaker, it is clear that for our Governor to work and deliberate on the promises he made to the people, It will be hard for him to work with people who were chosen by someone who has taken him to court. Somebody he competed against. These Board members are serving the interest of somebody who is trying to thwart the efforts of our current Governor. It is impossible to deliver with such people Mr. Speaker. I would like to request the House to adopt this report and send the CPSB home. So that the Governor can have an opportunity to select his own people to serve the County of Kisumu and to help him deliver his vision for the County of Kisumu and to provide services. Mr. Speaker, I rest to support the adoption of this motion thank you.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Jennifer Obonyo

Hon. Jennifer Obonyo: Thank you Hon. Speaker, I stand up in support of this motion. My reasons are, unless we disband this committee, we will not move on. We have looked at the report and we have found that the Board had committed irregularities. I stand here to urge you my fellow members that we disband this Board so that our Governor can move on with his work well.

We also want our people to get employment but without disbanding this board, that will not happen. I was of the opinion that for our Governor to accomplish his vision of service delivery to the residents of Kisumu County Government, This Board must be disbanded. Thank you, Mr. Speaker.

Temporary Speaker (Hon. Victor Rodgers): Very well, Yes Hon. Genga

Hon. Julius Genga: Thank you Mr. Speaker, I stand to support the motion before us and be extension the report from the Ad hoc Committee of which I was a member. I want to assure this House Mr. Speaker, that despite the time limitation on the side of the Ad hoc committee, we managed to gather a lot and I would like to tell my colleague Hon. Olale that this Board must be disbanded.

This is a Board that is very arrogant, does not follow the law; they are the law unto themselves. This is a Board that can sit and advertise positions in the Media and goes ahead and adds its own will without involving the Assembly. Section 62 gives the Board powers to Abolish or establish but in section 62 (2) it states that if the Board wishes to do so they must submit the proposal to the Assembly first and get clearance. They ignored this. I am patting abed that our Hon. Member is worried about the litigation; this house has no business in litigations. We have done our duty and we have a duty for the people of Kisumu County. We cannot start doing the Jobs of other people. So Hon. Olale's suggestion of incurring any court fees or litigation is none of our business.

Mr. Speaker, we are also aware that there is no other body that is mandated as we are to make such recommendations as we have, we know very well that we have given grounds and within that short period, we were able to get oral interviews, we were able to get written submissions, and they are all supported here Mr. Speaker. I am wondering what other evidence my colleague wants as grounds for disbanding this Board. This is a Board that should be disbanded as early as yesterday. We need the Governor to start his work. I can assure that from our observations as members of the Adhoc Committee, We came to a conclusion that this is a Board that has tentacles that is chocking the system. We do not want tentacles to go beyond the regime that they served. We have a new regime and the Governor gave his promises to the people of Kisumu County and he needs to settle down to work, we have already adopted his list of CECs. He needs to move to the next level of getting people to work.

Mr. Speaker, it is even so serious that in Kisumu as a City, the same Board could not have the audacity to explain why they would not establish the City Board to run the City that is why our City is in a mess, and then some people (names withheld) still wants us to believe that there are serious implications if we disband the Board. The only implications if we disband this Board are that we will have a running and an effective County Government. I feel the Board must go home. I don't know how some members still don't see that we need to have a new functional Board and this old one has to go home. I don't want to quote any more of the Constitution. I stand to

support and ask this Hon. House that we adopt this report and the recommendations in totality and the Board must be disbanded. Thank you, Mr. Speaker.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Habil

Hon. Habil Nyasuna: Thank you Mr. Speaker, I stand to support this motion, on the disbandment of the Board. First let me commend the Ad hoc Committee for a job well done by taking their time and investigating the Board, They also summoned members of the public who came and gave evidence that this is a corrupt Board. We need a board that is corruption free, we need a Board that would do its work effectively. We need a Board that will support the current regime. We need to give our Governor a humble time, so as to deliver his pledges to the people of Kisumu County.

Mr. Speaker, this is a Board that was given time to come and defend itself. Instead of coming to do so, they ran to Court. Mr. Speaker, Why were they running to Court? Why could they not have just come and defended themselves on the allegations that were levied against them. Mr. Speaker, This is a Board that would not let us deliver our promises to the people and would not let the County work effectively, Mr. Speaker, I rise to support.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Misachi Prisca

Hon. Misachi: Thank you Mr. Speaker. The Board which is discussed and that we gave the AD HOC Committee the mandate to investigate and give a report to the House, I want to support the motion based on the few parts of the reports that I have seen. The disbandment of this Board is long overdue. Allow me to give you a brief history of this Board. The Board consists of cousins, mother -in- laws and I think it was composed politically and this is a political situation which must be handled politically.

If the new Governor wants to put people that drive his agenda in the Board then this is not the right Board to give the Professor to work with. I therefore support the disbandment of this Board. I thought the Committee would invite me so that I tell them on who is related to whom and all the same this is a domestic Board which cannot serve the Governor. I support.

Temporary Speaker (Hon. Victor Rodgers): Very well Senior Member. Yes Hon. Pamela Odhiambo.

Hon. Pamela Odhiambo: Thank you Mr. Speaker. I stand to support the report and I want to congratulate the Ad Hoc Committee for tabling this report in the House. This Board must be disbanded because it was irregularly formed to support and push for the agenda of few individuals in the County and Hon. Misachi has made it very clear. I served in the last Assembly and I can vividly remember that they were told to employ around 20 ECD teachers per Ward. Mr. Speaker only two people were given the opportunity to serve.

I must say that the Board was giving the people jobs through the instructions of the former Governor. I fully support this motion and a new Board should be put in place to give the people of this County hope and opportunity that they are yearning for. Thank you.

Temporary Speaker (Hon. Victor Rodgers): What is it Hon. Seth Okumu?

Hon. Seth Okumu: On a point of Order. Is it in Order for the Majority Leader to pass before the Speaker without bowing?

Temporary Speaker (Hon. Victor Rodgers): Thank Honourable Member for that observation. Hon. Majority Leader can you respect the Chair.

(Hon. Majority Leader walking back before the Speaker and bowing)

Majority Leader (Hon. Kenneth): I am very sorry about that Honourable Speaker. Really you can't doubt my respect to the Chair. Thank you.

Temporary Speaker (Hon. Victor Rodgers): Yes Hon. Beatrice Achieng.

Hon. Beatrice: Thank you Mr. Speaker. I want to support the motion by echoing what Hon. Prisca said. The current Board was formed politically and the Governor cannot move his agenda with the current Board in place. We must give the Governor a new Board so as to enable him have a team of competent staff that can steer this County to greater heights. I humbly request this House to support the disbandment of this Board.

Mr. Speaker, we must do away with this Board because already we have the CEC members in place and the only remaining bit is the Chief Officers that must be recruited by this Board. A hundred days are over and the Chief Officers are not yet in the offices, Mount Ranguma is still there. Who will work on it if not the Chief Officers? It's only through the Chief Officers that the Governor will be able to do his work. Thank you.

Temporary Speaker (Hon. Victor Rodgers): Very well. Yes Hon. Oraro.

Hon. Oraro: Thank you Mr. Speaker. I rise to support this motion. That is the disbandment of the Kisumu County Public Service Board. I associate myself fully with the recommendations of the Board which I am also a member.

Mr. Speaker, I would like to bring to your attention that at the beginning of the investigation and I was a bit hesitant on the path the investigation was taking and two critical issues came to my mind. One was that the Board was given a chance to appear before the Ad Hoc Committee so that they could defend themselves because what were said were allegations and instead they chose to go to court.

Two, the issue of establishment of offices contrary to the law. I don't think there is a single room discussing the same because it is very clear even in the Constitution that there must be a consultation with the County Assembly which they ignored. That contravenes the law and the consequence is known.

I understand this Board Members are human beings and in as much as I support the recommendations, I would challenge the members to look into the future. Some six years coming because am aware that the Boards normally take five years to be removed.

For the Governor to work, he needs people that understand his manifesto and those that will work towards his dreams. We are setting a trend where the next Board that is coming will also have to go through the same. Measures should be put in place to protect the next Board. What goes around comes back around. Am afraid the Board that is going to be put in place will also go through this.

I would really want to support the disbandment of the Board and we be cautious on the establishment of the next Board. In my Ward, there are almost ten people who applied for various jobs and am happy that she was part of the team that was interviewed and to date they have not received any communication regarding those positions yet they are aware as presented by one of the witnesses that some were employed. They are even aware that there are guys who they performed better than and were given appointment letters. I support and associate myself with the recommendations of the Ad Hoc Committee.

Temporary Speaker (Hon. Victor Rodgers): Thank you. Yes Hon. Oketch Joachim.

Hon. Joachim: Thank you Mr. Speaker for seeing me on the spot. I came late and I thought I would find this report already passed in this House. I want to thank God I am here and I was very lucky to be part of the committee that prepared this report and I want to urge the members of the House that for our Governor to be able to kick start his operations smoothly, because he cannot have the Chief Officers in place if the rogue Board is still in place.

Mr. Speaker, this House is defined by laws and if there is a Board somewhere that has a habit of defiling and raping our Constitution then it must go. From this report, there are so many laws which have been broken. So many rights have been violated through this Board.

Mr. Speaker, if you look at the principles as per Article 232 of the Constitution, all these have been broken of a rogue Board. We should not even be here discussing this Board. This Board should have gone home as early as yesterday.

I urge the Members of this House that for the Governor to have a lean government just the same way we gave him a lean cabinet, let us give him an opportunity to have a lean Chief Officers because these are the Accounting Officers and also the opportunity to have employs of his choice

who are able to operate within the promises that he gave us. Mr. Speaker, I stand to support and associate myself 101% with this report. Thank you.

Temporary Speaker (Hon. Victor Rodgers): Thank you. Yes Hon. Atieno Otieno.

Hon. Atieno Otieno: Thank you Mr. Speaker. May I call the mover of the motion to reply?

Majority Leader (Hon. Kenneth): Mr. Speaker, Honourable Members I want to thank the Honourable Members present here today for their incisive and their overwhelming support they have given the Ad Hoc Committee especially on the need that this Board be disbanded like yesterday.

Mr. Speaker, if you look at the age of most of the Board Members, more than three quarters are retirees whose sale by date value has already elapsed. You know these are the people have the attitude, let me eat and die. They may not have a very clear picture on where we would want to take this County. That is why it is imperative that the Board be disbanded so that the Governor can be given the leeway to appoint people he can work with. To appoint people whose focus are tilted towards the service delivery.

Mr. Speaker, Honourable Members have alluded to the fact that the Board members were never given fair hearing. I want to report that we did invite the so that they could come and give their side of the story but instead they declined. There is nothing we could do to the coming to the Ad Hoc Committee. Moreover, the members have alluded of the court injunction. I want to say that the Constitution recognizes three arms of government in this republic. That is the Legislative arm of Government, the Judiciary and the Executive.

Mr. Speaker, if the Judiciary had to prefect all the decisions that are made by this Honourable house then the House will grind to a halt. We must have our independence and we must have that authority of independence. That is when the activities of this House will proceed. I also want to say that this Board violated the fundamentals of our Constitution. They did not perform their duties as dictated by the Constitution. We have seen that the Board even failed to establish the City Board we have also seen how important the City Board is for the County to operate smoothly.

Mr. Speaker, the failure to establish the City Board has resulted to enormous loss of revenue to the County. It has resulted to a lot of pilferage to the property especially to the ones in the City. You can even see in the environmental front that we have heaps and heaps of garbage at Kachok Dumpsite. This is a result of incompetent, uncomplacent management that was spear headed by this City Board.

I want say that I am very grateful that we are disbanding this Board today and give the Governor an opportunity to appoint the people who share his dreams. With the people who share his

manifesto. With the people who have the energy to take this County forward. With that Mr. Speaker, I now call upon you to put the motion to a vote. Thank you.

Temporary Speaker (Hon. Victor Rodgers): Thank you Honourable Members, allow me to report to the House that this motion of the Ad Hoc Committee Investigating the Conduct of the Members of the Kisumu County Public Service Board was laid yesterday Tuesday, 05th December, 2017 by the Leader of Majority at 2:30 p.m. and it was well seconded by Hon. Oraro. I would therefore strongly believe that the due process was followed as spelt in Standing Order No. 66. Therefore, I do wish to put a question for the adoption of this report.

(Question put and agreed to)

This report has now been officially adopted by this House today Wednesday 06th December, 2017 at 10:40 a.m.

ADJOURNMENT

Temporary Speaker (Hon. Victor Rodgers): There being no any other business, this House stands adjourned until today at 2:30 pm. Thank you.

House rose at 5:45 p.m.