

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FOURTH SESSION

Tuesday, 13th October, 2020

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

(The Temporary Speaker (Hon. Inviolata Adhiambo) in the Chair)

PRAYERS

The Temporary Speaker (Hon. Inviolata): Thank you Honourable. Members? I want to request that, pursuant to the provisions of County Assembly of Kisumu Standing Order No. 32 (2) that the Serjeant-at-Arms rings the quorum bell for five minutes.

(Quorum bell rung for five minutes)

(House resumes after attaining the required quorum)

The Temporary Speaker (Hon. Inviolata): Hon. Rashid Miruka, can you please confirm if we have the required quorum.

Hon. Miruka: Mr. Speaker, yes we have the required quorum. Thank you.

The Temporary Speaker (Hon. Inviolata): Thank you. Madam Clerk, kindly take us through the business of the day.

The Temporary Speaker (Hon. Inviolata): Next order!

PAPER LAID

AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE REPORT ON THE
BENCHMARKING EXERCISE WITH UASIN GISHU COUNTY ASSEMBLY SISTER
COMMITTEE

BY

HON. VITALIS OTURA

CHAIRPERSON, AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE

The Temporary Speaker (Hon. Inviolata): Yes Hon. George Ogutu.

Hon. Ogutu: Pursuant to the provision of the County Assembly Standing Order No. 186 (6), I wish to lay today Tuesday 13th October, 2020, Agriculture, Livestock and Fisheries Committee report on the benchmarking exercise with Uasin Gishu County Assembly sister committee. I am laying the Paper on behalf of Hon. Vitalis Otura. Chairperson, Agriculture, Livestock and Fisheries Committee. Thank you.

The Temporary Speaker (Hon. Inviolata): I conform the receipt of Agriculture, Livestock and Fisheries Committee report on the benchmarking exercise with Uasin Gishu County Assembly sister committee. I commit the report to the House Business Committee to slot it for discussion on the Floor of this House.

The Temporary Speaker (Hon. Inviolata): Next order!

NOTICES OF MOTION

AGRICULTURE, LIVESTOCK AND FISHERIES REPORT ON THE BENCHMARKING
EXERCISE AT UASIN GISHU COUNTY ASSEMBLY

BY

HON. VITALIS OTURA

CHAIRPERSON

The Temporary Speaker (Hon. Inviolata): Yes Hon. Ogutu.

Hon. Ogutu: Pursuant to the provisions of County Assembly Standing Order No. 45, I wish to give a Notice of Motion for the Committee on Agriculture, Livestock and Fisheries Report on the Benchmarking Exercise with the sister Committee of Uasin Gishu County Assembly on behalf of Hon. Otura. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Inviolata): Thank you Hon. Ogutu.

The Temporary Speaker (Hon. Inviolata): Next Order!

STATEMENTS

The Temporary Speaker (Hon. Inviolata): It is Statement hour Honourable Members. I can see there are no Statements. We proceed to the next business.

The Temporary Speaker (Hon. Inviolata): Next Order!

MOTION

WATER, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE REPORT ON
NYALENDA 'A' LAGOON

BY

HON. SAMSON AMESO

CHAIRPERSON

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Seth Kanga

Hon. Kanga: Madam Speaker, I wish to move a Motion on Sectoral Committee of Water, Environment and Natural Resources Report on Nyalenda 'A' Lagoon on behalf of my Chair Hon. Ameso.

Mr. Speaker and Hon. Members, pursuant to Standing Order No. 41 (b) of the Kisumu County Assembly Standing Orders a Statement was sought from the Chairperson for the Committee on Water, Environment and Natural Resources by Hon. Jacktone Ogendo regarding Nyalenda 'A' Lagoon on Thursday, 27th August, 2020 at 1430Hrs of Order Paper No. 361. In accordance with Article 185 of the Constitution of Kenya, Section 8 of the County Government's Act, 2012 read together with Standing Order No. 193, the Hon. Speaker instructed the Committee on Water, Environment and Natural Resources to make an inquiry, investigate and cause a report on:-

- I. Why there is a delay in fencing off Nyalenda A Lagoons which has claimed eight (8) lives?
- II. What are the measures in place by the CEC Member in charge and the KIWASCO to curb the loss of lives?

Consequently, the Clerk of the Assembly notified the Department of Water, Environment and Natural Resources through the Office of the County Secretary, to provide a detailed response to the attendant demands of the Statement sought by Hon. Jacktone Ogendo vide letter Ref. CAK/CS/ADM/VOL.V/8/20 (067) dated 1st September, 2020.

Establishment and Mandate of the Committee.

Mr. Speaker and Hon. Members, the Sectoral Committee on Water, Environment and Natural Resources is established under Standing Order No. 193 of the Kisumu County Assembly Standing Orders, whose mandates, pursuant to the Standing Order No. 193 (Second Schedule) is as follows;

To investigate, inquire into, and report on all matters relating to the provision of clean water for Domestic use; implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances and outdoor advertising.

The Subject matter of the Sectoral Committee on Water, Environment and Natural Resources are as stated in the Second Schedule of the Kisumu County Assembly Standing Orders No. 193 and are as follows; Environmental Conservation, noise pollution, provision of clean water for domestic use, water conservation and implementation of specific national government policies.

Composition.

The committee as currently constituted comprises of the following Honorable Members;

NAME	POSITION
1. Hon. Samson Ameso	- Chairperson
2. Hon. Kennedy Ooko	- Vice Chairperson
3. Hon. Seth Okumu	- Member
4. Hon. Seth Kanga	- Member
5. Hon. David Arao	- Member
6. Hon. Joachim Oketch	- Member
7. Hon. Roy Samo	- Member
8. Hon. Steve Owiti	- Member
9. Hon. Gard Olima	- Member
10. Hon. Olga Aoko	- Member
11. Hon. Caren Muga	- Member
12. Hon. Maurice Ngeta	- Member
13. Hon. Philemon Ojuok	- Member
14. Hon. Johnson Guya	- Member
15. Hon. John Atieno	- Member

Committee Secretariat.

1. Peter Anditi - Senior Clerk Assistant
2. Harman Moses - Committee Clerk
3. Angelyne Obonyo - Clerk Assistant
4. Patrick Okoyo - Hansard
5. Dominic Muinde - Legal Counsel
6. Rose Baraza - Serjeant-at-arm

ACKNOWLEDGEMENTS.

Mr. Speaker and Hon. Members. I would like to express my special thanks of gratitude to all members of the Committee on Water, Environment and Natural Resources for their valuable contributions during this inquiry.

I also wish to thank the Hon. Members and the Hon. Speaker for having allowed the Committee more time to conclude its investigations on this matter.

I therefore humbly submit this Report for consideration by the House on behalf of the Committee on Water, Environment and Natural Resources.

LEGAL BASIS OF THE INVESTIGATION.

Mr. Speaker and Hon. Members, the subject matter of this inquiry is guided by the Environment Management and Co-Ordination Act, 1999 and Environmental Management and Coordination (Amendment) Act, 2015, The Water Act, 2002, the Public Health Act and the following regulations anchored on the Acts:

- a) The Environmental Management And Co-Ordination (Conservation And Management Of Wetlands) Amendment Regulations, 2017
- b) Environmental Management and Coordination (Wetlands, River Banks, Lake Shores and Sea Shore Management Regulation 2009
- c) The Environment Management and Coordination, (Water Quality) Regulations 2016.

These regulations applies to drinking water, water used for industrial purposes, water used for agricultural purposes, water used for recreational purposes, water used for fisheries and wildlife, and water used for any other purposes.

Other regulations that guided this investigation include:

- i. Kenya Vision 2030
- ii. Land Registration Act 2012
- iii. Water Act 2002
- iv. The Lakes and Rivers Act Cap 409
- v. The Wildlife Conservation and Management Act, Cap 37
- vi. The standard Act Cap 496

TASK FOR THE COMMITTEE

Mr. Speaker and Hon. Members

The following were the tasks to be undertaken by the Committee.

- i. To conduct a risk assessment of Nyalenda 'A' Lagoons

- ii. To identify the causes of deaths in Nyalenda 'A' Lagoon
- iii. To find out necessary recommendations for the Management of the Lagoon
- iv. To investigate the status of fencing of Nyalenda 'A' Lagoon.

BACKGROUND INFORMATION.

TERMS OF REFERENCE

Mr. Speaker and Hon. Members, the Committee on Water, Environment and Natural Resources convened on 1st September, 2020 and resolved that the following terms of reference would guide the Committee in this inquiry:

- i. Conduct a site visit to Nyalenda 'A' Lagoon
- ii. To write to the CEC Member for the Department of Water, Environment and Natural Resources to give response on the Status of the Fencing of the Lagoon

Mr. Speaker and Hon. Members, kindly note that the Committee, having been pressed by the need to facilitate the Public Participation on the Kisumu County Climate Change Bill, 2020 as committed by the Hon. Speaker on 18th August, 2020 in accordance with Standing Order No. 123 (1) of the Kisumu County Assembly Standing Orders, had prayed for more time following its submission of a progress report on this subject matter to this Hon. House on Thursday, 24th September, 2020.

In accordance with the Committee's prayer, the Hon. Speaker ruled that the Committee be given fourteen (14) more days to conduct its investigation on the matter as had been sought by Hon. Jacktone Ogendo and presented pursuant to Standing Order No. 41 (b).

RESPONSE BY THE DEPARTMENT ON THE STATUS OF FENCING OFF OF NYALENDA 'A' LAGOON.

Mr. Speaker and Hon. Members, following the Communication made to the CEC Member for Water, Environment and Natural Resources vide letter Ref.CAK/CS/ADM/VOL.V/8/20 (067) by the Clerk of the Assembly, the CEC Member; Mr. Salmon Orimba has informed the Committee as follows (See Annex ii)

1. THAT the fencing off of the Lagoon was affected by a project named Lake Victoria Water and Sanitation Initiative (LVWATSAN) and was disintegrated into four major components;
 - i. Construction of 107km of water supply distribution System within the City, extending to Satellite towns of Masesno, Kiboswa and Ahero.
 - ii. Construction of 70km of sewerage network within the Kisumu City, rehabilitation and expansion of Nyalenda 'A' Waste Water stabilization pond.
 - iii. Prepare Water Resources and Wastewater Management Master Plan for Kisumu City and Kisumu County
 - iv. Develop new sewerage treatment works at Otonglo to treat 8,000m³/ day of wastewater.
2. THAT based on LVWATSAN project's commitment as articulated above, KIWASCO could not allocate a budget for fencing off Nyalenda 'A' waste water stabilization pond since the activity is already covered under project's component no. 2.
3. THAT the implementation of LVWATSAN Programme as many other donor-funded programmes has been slowed down by the outbreak of COVID-19.

INTERVENTION OF THE DEPARTMENT ON THE MATTER OF NYALENDA A LAGOON.

Mr. Speaker and Hon. Members, the Committee has further been made aware, pursuant to the response submitted by the Department;

THAT the Department in collaboration with KIWASCO has so far undertaken the following actions as a temporary measure awaiting full implementation of LVWATSAN Project;

- i. Administrative: The local administration and the Kenya Police have been put on notice of the hazard faced by the company and the Community.
- ii. Communication: Signage has been beefed up at the facility to make it clear the consequences of trespass and the danger the Community exposes itself to as a result of trespass.
- iii. Lighting: The Company has installed ten (10) Number light masts for solar light at the lagoons which are functional although it has been already proposed to have high intensity lights for better monitoring.
- iv. Reinforced Security: The Company has since the last incidence initiated the process of beefing up security by additional three (3) Dog handlers with three (3) well trained guard dogs. (Further refer to annex ii).

SITE-VISIT TO NYALENDA ‘A’ LAGOON

Mr. Speaker and Hon. Members, following the resolution of the Committee in its meeting held on Thursday, 1st October, 2020, the Committee conducted a site visit to Nyalenda ‘A’ Lagoon on 2nd October, 2020 to investigate the causes of death and status of fencing off of the lagoon and to verify the report submitted by the CEC Member on the current state of the Lagoon.

For purposes of this investigation, the Committee also cross-examined the following persons at the site.

1. Mr. Dick Achila - Nyalenda A Ward Manager
2. Mr. Benjamin Odhiambo – Nyalenda A Lagoon Technical Manager (Groundsman)
3. Mr. Ken Mando – Area Resident
4. Mzee Sidede – Area Resident
5. Mr. Elvis Jobita – Area Resident

OBSERVATIONS AND FINDINGS

Mr. Speaker and Hon Members, the Committee observed as follows;

- i. THAT contrary to the report by the CEC Member: Mr. Salmon Orimba in his letter dated 17th September, 2020 (see annex ii) that ten solar light masts had been installed at the Lagoon, the Committee observed that only six (6) solar light masts have been installed at the site.

Be informed that the solar light masts installed have a light radius capacity of only 15m, installed three hundred metres apart in an area coverage of over thirty hectares.

- ii. THAT contrary to the report submitted to the Committee by the CEC Member that signage has been beefed up at the facility to warn of trespass, the Committee observed that there are only two (2) signing boards erected in the far flanks of the Lagoon but no writing or signage has been done on them; they are blank. (Refer to pictorial summary fig. 1.0).

- iii. THAT there has been neither an attempt at fencing nor any sign that fencing had begun at the Lagoon despite the CEC Member's assurance that a temporary fence had been designed, quoted for and is under procurement process and the works were to begin within the month of September, 2020. The Committee was informed by the area residents that the now completely vandalised fence was installed in the first construction of the Lagoon in the 1970s.

FINDINGS

Mr. Speaker and Hon. Members, following the cross-examinations by the Committee and the area residents met on site, the Committee was informed as follows;

- i. That more than ten (10) bodies have since been found at the Lagoon between the periods of 2019 – 2020.
- ii. That autopsy reports of two out of three bodies that have been found at the Lagoon has indicated that these individuals had been murdered outside and disposed at the site. There has been no indication of accidental drowning.
- iii. That there are instances of individuals committing suicide at the Lagoon.
- iv. That most of the bodies found at the Lagoon have mostly been found at the second anaerobic dam which is closest to the road and the main security station at the Lagoon, raising local residents' suspicion that some of the deaths at the Lagoon might have been caused by Pride security personnel.

Take notice that Security at the Lagoon is manned by Maasai Morans employed by Pride Security Firm.

- v. That there is active illegal fishing going on at the Lagoon which is likely to be a source of conflict between the Security Personnel at the site and the locals.

RECOMMENDATIONS.

Mr. Speaker and Hon. Members, being aware; that the Department of Water, Environment and Natural Resources, KIWASCO and the Lagoon are under the supervisory jurisdiction of this Honourable House pursuant to Article 185 of the Constitution of Kenya and Section 8 of the County Government's Act, 2012, the Committee hereby recommends;

1. THAT the CEC Member for Water, Environment and Natural Resources in accordance with Section 34 (b), (d) of the County Government's Act, 2012:
 - i. Shall within sixty (60) days from the tabling of this report consider as an emergency response, the installation of two No.15M Floodlights at the lagoon and NOT solar light lamps.
 - ii. Shall within fourteen (14) days from the tabling of this report, complete its signage within the Lagoon to warn of trespass.
2. THAT the CEC Member for Water, Environment and Natural Resources pursuant to the intendment of Article 185 of the Constitution of Kenya, Section 8 of the County Government's Act, 2012 and Standing Order No. 174 of the Kisumu County Assembly Standing Orders;
 - i. Shall within fourteen (14) days from the tabling of this report submit to this Honourable House the current EIA report of Nyalenda "A" Lagoon.

- ii. Shall within fourteen (14) days from the tabling of this report submit to this Hon. House a full detail and scope of the Lake Victoria Water and Sanitation (LVWATSAN) programme?
3. THAT KIWASCO shall within fourteen (14) days from tabling of this report ensure that Pride Security Company provide professional and uniformed security personnel at the Lagoon failure to which an alternative security company, by order of this Honourable House, shall be sought to provide necessary security at the Lagoon.
4. THAT the Department shall within thirty (30) days of tabling of this report initiate a temporary fencing off of the Lagoon to prevent unnecessary access to the lagoon as the County awaits the Lake Victoria Water and Sanitation programme to kick-off.

CONCLUSION.

Mr. Speaker and Hon. Members, in light of this investigation, the Committee wishes to thank the Hon. Jacktone Ogendo for bringing to the fore this pertinent matter affecting our people. The Committee thus concludes as follows;

- i. That following the inconsistencies evidenced in the report submitted by the CEC Member for Water, Environment and Natural Resources to the Committee, it is disturbing to note that the Department has lost touch with realities on the ground and has shown its inability to present, in real time, the environmental conditions and its state on the ground.
- ii. That the Nyalenda A Lagoon as important as it is to our people, must not be made a detriment to the same people it was constructed to serve due to mismanagement and that collective effort must be put in place to avoid ANY loss of lives in the Lagoon.
- iii. That being aware of the stench produced by the Lagoon and its attendant effects on the neighboring residential areas, the Committee observes that a tree line need to be planted around the Lagoon to absorb and expel the stench.
- iv. That being aware that the Community hosting the Lagoon do not have a sewerage system, there is need for a sewerage system to be constructed in the Community and connected to the Lagoon. This in turn may inspire a communal ownership of the Lagoon and thus promote its security and protection from rampant vandalism,

Mr. Speaker and Hon. Members, following the Committee's findings and recommendations on this investigation, it is my honor and privilege, on behalf of the Committee on Water, Environment and Natural Resources to request this House to consider for approval, this report and the recommendations herein.

Hon. Kanga: I would like to call upon Hon. Muga to second this Report. Thank you, Madam Speaker and Honourable Members.

Thank you Mr. Speaker and Hon. Members.

The Temporary Speaker (Hon. Inviolata): Thank you. I want to confirm that Hon. Muga is online and that she has seconded the Report. Now that the Report on Water, Environment and Natural Resources Committee has been read by Hon. Kanga and seconded by Hon. Muga who is online, I would like to open it for debate.

The Temporary Speaker (Hon. Inviolata): Yes Hon. Victor Rodgers of Migosi Ward.

Hon. Rodgers: Thank you Madam Speaker, I want to commend the committee members for a job well done. The committee discovered that the side of the Lagoon that has not been fenced has caused several deaths, and the CEC member of Health and Sanitation has confirmed that the completion of fencing was interrupted during the outbreak of the COVID-19 Pandemic. The committee has recommended that once the work is done, the CEC Member should report to this House. Consequently, it was brought to the attention of this House that there were some developments that were to be done in that area such as the erection of floodlights but this has not been done according to the committee's findings yet, the CEC Member had responded to its effect. We are therefore requesting that this is done as recommended by the committee; otherwise I support the adoption of the report.

The Temporary Speaker (Hon. Inviolata): Thank you Hon. Victor Rodgers.

The Temporary Speaker (Hon. Inviolata): Yes Hon. Rashid Miruka.

Hon. Miruka: Thank you Madam Speaker, first, allow me to appreciate Hon. Jacktone Ogendo who brought the Statement to this Plenary. I also wish to commend the Committee of Water and Environment for the thorough findings and recommendations they have come up with. However, for a long time, the issue of COVID-19 has been used as an excuse. It is high time we took lives of our Members seriously. As said by Hon. Ogendo, more than eight lives have been lost by the Lagoons that have been left bare. The findings of the Members who went on site indicate that, more than 10 lives have been lost.

Madam Speaker and Hon. Members, we have however not got the information on when these Lagoons will be fenced. I believe that they would have been informed by the relevant Department on the arrangement to ensure no more life is lost. I still want Members of Water and Environment to look into this issue and establish why it has not been fenced off and when this will be done.

Secondly, we are looking at the way the area is protected. We are told that even the guards who are protecting that area are not professional – just the Maasai who have been engaged to guard and take care of the place. Sadly, along the lagoon, we have even seen children walking around. The Department should inject a lot of seriousness and bring professionals to man the place. The department should also tell Members and the community when the area would be fenced off because we do not want any more deaths to occur. Otherwise, am also in support of the approval

of their sentiments but, they should include the issues that we have raised here. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Inviolata): Thank you. Yes Hon. Majority Whip.

The Chief Whip (Hon. Misachi): Thank you Madam Speaker, may I call upon the mover to reply.

The Temporary Speaker (Hon. Inviolata): Thank you. The mover, you have been called upon to reply.

Hon. Kanga: Thank you Madam Speaker. I would like to acknowledge and appreciate contributions of Hon. Members and their effort on this report especially Hon. Victor Rodgers (MCA, Migosi) and the Honourable Member who is also a friend of mine Hon. Rashid Miruka (MCA, North Nyakach).

Madam Speaker, Hon. Rashid has raised some pertinent issues on the report majorly the loss of lives in the Lagoon as well as the exposure of children playing around the lagoon to waterborne diseases. Madam Speaker, Hon. Rashid, has also raised issues which are clearly addressed in the report as the department responded because there is Lake Victoria Management Plan. One the major work of that is to deal with issues of waste management especially the sewer. Madam Speaker, in the recommendation of the committee; it indicated that the lagoons be fenced and that is clearly addressed in (iii) whereby it is now upon the Department of Water, Environment and Natural Resources to appropriate funds towards the effect of fencing of the lagoon to avoid any loss of lives. Madam Speaker, with those few remarks it is now my humble prayer that you put a question upon the report. Thank you.

The Temporary Speaker (Hon. Inviolata): Thank you. I would like to request that the Hon. Members who are always present online to mute their microphones. Now that the motion on Nyalenda “A” Lagoon has been moved by Hon. Kanga on behalf of Hon. Ameso and deliberated on, I would like to put a question for the adoption of the report from the Committee of Water, Environment and Natural Resources?

(Question put and agreed to)

The Temporary Speaker (Hon. Inviolata): The report from the Committee of Water, Environment and Natural Resources on Nyalenda “A” Lagoon is hereby adopted and communication should be made by the Clerk for further implementation.

The Temporary Speaker (Hon. Inviolata): Next Order!

ADJOURNMENT

The Temporary Speaker (Hon. Inviolata): There being no any other business to transact, the House stands adjourned to tomorrow Wednesday 14th October 2020 at 2.30 p.m.

(House rose at 3.15 p.m.)

Addendum

Hansard Reporters

<i>Zablon Otiende</i>	-	<i>Reporter - In-charge</i>
<i>Patrick Okoyo</i>	-	<i>Reporter</i>
<i>Edward Odanga</i>	-	<i>Reporter</i>
<i>Dennis Ogolla</i>	-	<i>Reporter</i>
<i>Fanuel Okode</i>	-	<i>Reporter</i>
<i>Jacklyne Otieno</i>	-	<i>Reporter</i>
<i>Jesca Otieno</i>	-	<i>Reporter</i>