

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

SECOND ASSEMBLY – FOURTH SESSION

Wednesday, 18th November, 2020

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

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYERS

The Speaker (Hon. Oraro): Hon. Members, pursuant to the provisions of County Assembly Standing Order No. 32 (2), I request that the Sergeant-At-Arms rings the quorum bell for five minutes.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): Majority Whip, can you please confirm if we have quorum?

Chief Whip (Hon. Misachi): Thank you Mr. Speaker. I confirm that the House has attained the required quorum. Thank you.

The Speaker (Hon. Oraro): Mr. Clerk, take us through the Order Paper of the day.

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, welcome to this session. Today in the morning, we had our counterparts from Nyandarua County Assembly who gazetted this

Assembly for their session which was conducted here in the Chambers from 9:00 a.m. to 11:00 a.m. The feedback I received is that, they were happy from the reception they got from Kisumu County Assembly. This was not the first time Nyandarua County Assembly was here. Sometimes back, I am not sure whether it is First or Second Assembly, Nyandarua County Assembly was here for committee work.

Today they held there session here and that shows a very good working relationship between us and other Assemblies. We have to commend ourselves for that.

The second communication is that on 26th November, 2020, Kisumu County shall be having the 3rd Annual State of the County Address by His Excellency the Governor Prof. Peter Anyang' Nyong'o hosted by the Members of the County Assembly. The venue will be Mama Grace Onyango Social Center, formerly the Kisumu Social Hall from 9:00 am. You shall be getting communication in due course and probably the invitation cards. It shall be invites only because of the COVID-19 issue and the number will be restricted. So, please if you have any arrangement, we are going to do a gazette notice on the same.

Otherwise, we shall not be having our Zoom line but I want to encourage Members to be at the Chambers once you arrive for the session. Welcome and enjoy the session.

The Speaker (Hon. Oraro): Next order!

PAPER LAID

HEALTH, HOUSING AND SANITATION COMMITTEE REPORT ON ITS STUDY TOUR
AT MOI TEACHING AND REFERRAL HOSPITAL

BY

HON. VINCENT JAGONGO

CHAIRPERSON, HEALTH, HOUSING AND SANITATION COMMITTEE

AND

AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE REPORT ON BURNT
SUGARCANE PRICE REDUCTION BY KIBOS SUGAR INDUSTRIES

BY

HON. VITALIS OTURA

CHAIRPERSON, AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE

WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE
COMMITTEE REPORT ON THE GOVERNOR'S MEMORANDUM ON THE KISUMU
COUNTY CLIMATE CHANGE BILL, 2020

BY

HON. SAMSON AMESO

CHAIRPERSON, WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE
CHANGE COMMITTEE

The Speaker (Hon. Oraro): Yes Hon. Seth Okumu.

Hon. Okumu: Thank you Mr. Speaker. Pursuant to the provisions of County Assembly Standing Order No. 182 (6), I wish to lay today Wednesday 18th November, 2020, Health, Housing and Sanitation Committee report on its Study Tour of Moi Teaching and Referral Hospital on behalf of the Chair, Hon. Vincent Jagongo.

The Speaker (Hon. Oraro): Honourable Members, I acknowledge the receipt of Health, Housing and Sanitation Committee report on its Study Tour at Moi Teaching and Referral Hospital. I want to commit this report to the House Business Committee so that it can be scheduled for a debate. Thank you.

The Speaker (Hon. Oraro): Yes, Hon. Otura Vitalis.

Hon. Otura: Thank you Mr. Speaker. Pursuant to the provisions of County Assembly Standing Order No. 182 (6), I wish to lay today Wednesday 18th November, 2020, Agriculture, Livestock and Fisheries Committee report on Burnt Sugarcane Price Reduction by Kibos Sugar Industries.

The Speaker (Hon. Oraro): Honourable Members, I acknowledge the receipt of Agriculture, Livestock and Fisheries Committee report on a Statement sought on 23rd April, 2020 by Hon. Linet Caren Muga on the stalemate between cane farmers and Kibos Sugar Company on lowered prices for burnt cane and a short notice given to farmers decreasing the price of the said cane as presented by the Chairperson of Agriculture, Livestock and Fisheries Committee. I want to commit this report to the House Business Committee so that it can be scheduled for a debate. Thank you.

The Speaker (Hon. Oraro): Yes Hon. Ameso.

Hon. Ameso: Thank you Honourable Speaker, Pursuant to the provisions of County Assembly Standing Order No. 182 (6), I wish to lay today Wednesday 18th November, 2020, Water, Environment, Natural Resources and Climate Change Committee on Governor's Memorandum on the Kisumu County Climate Change Bill, 2020. Thank you.

The Speaker (Hon. Oraro): Honourable Members, I acknowledge the receipt of a report from the Water, Environment, Natural Resources and Climate Change Committee on the deliberations on Governor's Memorandum on the Kisumu County Climate Change Bill, 2020 as presented by the Chairperson, Hon. Ameso. I want to commit this report to the House Business Committee so that it can be scheduled for a debate.

The Speaker (Hon. Oraro): Mr. Clerk, those reports should be prepared earlier and sent to the Members before the debating day. Next order.

NOTICES OF MOTION

HEALTH, HOUSING AND SANITATION COMMITTEE REPORT ON ITS STUDY TOUR
AT MOI TEACHING AND REFERRAL HOSPITAL

BY

HON. VINCENT JAGONGO

CHAIRPERSON, HEALTH, HOUSING AND SANITATION COMMITTEE

AGRICULTURE, LIVESTOCK AND FISHERIES COMMITTEE REPORT ON BURNT
SUGARCANE PRICE REDUCTION BY KIBOS SUGAR INDUSTRIES

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COUNTY CLIMATE CHANGE BILL, 2020

BY

HON. SAMSON AMESO

CHAIRPERSON, WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE
CHANGE COMMITTEE

The Speaker (Hon. Oraro): Yes, Hon. Seth Okumu.

Hon. Okumu: Thank you Mr. Speaker. Pursuant to the provision of County Assembly of Kisumu Standing Orders No. 45, I wish to give a Notice of Motion for the Health, Housing and Sanitation Committee report on its Study Tour at Moi Teaching and Referral Hospital on behalf of the Chair, Hon. Vincent Jagongo. Thank you.

The Speaker (Hon. Oraro): Yes Hon. Vitalis Otura.

Hon. Otura: Thank you Mr. Speaker. Pursuant to the provision of County Assembly of Kisumu Standing Orders No. 45, I wish to give a Notice of Motion on the Agriculture, Livestock and Fisheries Committee Report on Burnt Sugarcane Price Reduction by Kibos Sugar Industries. Thank you.

The Speaker (Hon. Oraro): Hon. Ameso Samson.

Hon. Ameso: Thank you Mr. Speaker. Pursuant to the provision of County Assembly of Kisumu Standing Orders No. 45, I wish to give a Notice of Motion on Water, Environment, Natural Resources and Climate Change Committee on Governor's Memorandum on the Kisumu County Climate Change Bill, 2020. Thank you.

The Speaker (Hon. Oraro): Next order!

STATEMENTS

The Speaker (Hon. Oraro): Yes Hon. Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. By virtue of my position as the Leader of Majority, I would wish to state that, we did meet the Party Leader yesterday in Nairobi in which he gave us a road map towards the implementation of the BBI. I want to inform the Honourable Members that, collection of signatures will be launched at the KICC by the His Excellency the President and the Party Leader. Thereafter, that work will be rolled out to respective counties, sub-counties and to the wards.

He did plead with us as the Honourable Members from different Wards, we should the focal point and plan towards this exercise. I want to say that immediately that activity reaches down here, we shall be in a position to spearhead the collection of signatures and I would wish to urge each one of us to ensure that we carry that with tremendous urgency.

Mr. Speaker, it is anticipated that after the collection of signatures, then the matter shall escalate to the IEBC which will then publish the referendum without question. According to the timeline, this referendum should be done latest April next year. What that therefore means is that, there is going to be an escalation of activities towards the referendum and I would wish that the Honourable Members take center stage in this. I also want to say that we should be at the forefront in popularizing the BBI in our respective areas of jurisdiction and not even in our areas of jurisdiction but also other place. Otherwise, I want to believe that other matters that Members

may have wished to be addressed which may be outside the BBI will be handled administratively. That is the assurance we were given by the party leader. Thank you.

The Speaker (Hon. Oraro): Yes, Minority Leader.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. I wanted to air my views on the same though the Leader of Majority who has talked before me. Honourable Members, we had the opportunity to attend the CAF Meeting in Nairobi yesterday where the CAF members were airing their views on BBI. When we arrived there, the picture was that CAF wants to interrogate the BBI and some Members wanted to take a hard stand on the document but that was lowered and there was a general agreement that we as MCAs should look at our welfare in the BBI.

We should not demand for everything at ago. Let us look for issues we can plead for as others will follow. There is also agitation that the BBI should be interrogated, which is not bad but the general picture that I as Hon. Oiko should plead for is that, let us look at gains in the report.

Mr. Speaker, when I look at the newspapers, to the Catholic, the Imperial Presidency is coming back and that was well explained by Baba that there is no Imperial Presidency. The president will be there to appoint the Prime Minister. The Prime Minister will come from the majority party. The Evangelical Churches of Kenya are talking about abortion and homosexuality. That is what they are mad about on the BBI. So, everyone is looking on something to cling to but I am not seeing people coming up to condemn the 35% of allocation that will come to the counties. To me, this is the biggest achievement. This is a political process and everything can't come first. Let us take our time and advocate for the BBI to go through and in that we shall get the little that is meant for us as the MCAs.

Mr. Speaker, when we discussing in our meeting, like in the National Government, 50% of the ministers shall be appointed from the Parliament. It was being requested that the same should also be done at the County Assemblies. When that happens, we shall have achieved something. Some of us will be in the Cabinet of the Governor. That will be a plus to us. Let us take it upon ourselves to implore our people to appending their signatures and approve the BBI via Referendum. Constitutional changes take place time after time and let us appreciate what is coming now and more will roll down in later years. Thank you, Mr. Speaker.

The Speaker (Hon. Oraro): Next order Mr. Clerk.

COMMENCEMENT OF BUSINESS

MOTION

PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE REPORT ON THE CONSTRUCTION/RENOVATION OF MOI STADIUM

BY

HON. MAUREEN OTIANG'

CHAIRPERSON, PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

The Speaker (Hon. Oraro): What is it Hon. Roy Samo?

Hon. Samo: Thank you Mr. Speaker. On behalf of the Chairperson, Hon. Otiang' and equally as a Member of the Committee and with due respect I would like to request your chair to give me the opportunity to read this report from the Select Committee of PIC/PAC on the Renovation/Construction of the Moi Stadium. I was informed by the Chairperson to do so.

The Speaker (Hon. Oraro): Please proceed Hon. Samo.

Hon. Samo: Thank you Mr. Speaker. I may not go through the entire report and I would wish to request the Members to be keen and attentive so that they go through it themselves. However, this is a report from the Select Committee of PIC/PAC and it is a product of a Statement that was sought by Hon. Johnstone Guya on the 13th August, 2020 on the Construction/Renovation of the Moi Stadium which is annexed as I

The statement highlighted concerns regarding the following:

1. The amount of money that was earmarked for the Construction of Moi stadium;
2. The amount that had so far been appropriated for the project and the amount already spent for the same;
3. If there were any procurement process undertaken on the project;
4. The challenges that the concerned department had encountered in the implementation of the project;
5. When the project is expected to be complete and access to the facility granted to the public;
6. If there was any support received from the Federation of Kenya Football (FKF).

Honorable Speaker

In accordance with Article 185 of the constitution of Kenya, Section 8 of the County Government's Act, 2012 read together with Standing Orders No. 193 of the County Assembly of Kisumu, the matter was subsequently committed to the Public Accounts and Investments Committee to inquire, investigate and report to this House on the above questions within fourteen (14) working days.

Establishment and Mandate of the Committee

Mr. Speaker and Hon. Members, The Public Accounts and Investments Committee is established under Standing Order No. 188 of the Kisumu County Assembly Standing Orders whose mandates, pursuant to the Standing Order No. 188 (2) (Second Schedule) is as follows;

- a. Examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the House as the committee may think fit;
- b. Examination of the working of the Public Investments
- c. Examine the reports and accounts of the Public Investments and,
- d. Examine in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

Legal Basis of the Investigation

Mr. Speaker and Hon. Members, this report is premised on the four corners of the law. The Constitutional call under Chapter Twelve (12) is that public finance has to be utilized in a prudent, accountable and transparent manner. This is the spirit of Article 201 of the Constitution of Kenya 2010. Further, Articles 225 - 227 go along way on emphasizing for the same golden financial values in use of public finance. This is inclusive but not limited to tendering processes, procurement and even disposal of public assets.

This clarion call has seen the birth of Statutes and Regulations among them;

- i. The Public Finance and Management Act, 2012;
- ii. The Public Procurement and Asset Disposal Act, 2015;
- iii. The County Governments Act, 2012;
- iv. Public Procurement Regulations, 2018

Mr. Speaker and Honorable Members, the various provisions of the above legal documents provided the basis for the conduct of this investigation.

It is on this premise and in exercise of its core mandate under the Standing Orders that the Public Accounts and Investments Committee of the County Assembly of Kisumu engaged the County Department of Tourism, Culture, Arts and Sports under whose remit the development of sports facilities in the county falls.

The Committee sought to inquire, investigate and report back to this Hon. House on the status of construction/renovation of Moi Stadium not only as to what was requested by Hon. Johnson Guya in his statement but also as a duty to the people of Kisumu who depend on our oversight role to check on any activity which might imperil the prudent use of public resources.

Committee Composition

The Committee as currently constituted comprises of the following Honourable Members,

NAME	POSITION
1. Hon. Maureen Otiang'	Chairperson
2. Hon. Benny Oiko	Vice Chairperson
3. Hon. Paul Okiri	Member
4. Hon. Seth Okumu	Member
5. Hon. Johnson Guya	Member
6. Hon. Roy Samo	Member
7. Hon. Beatrice Pamela	Member
8. Hon. Nancy Owiti	Member
9. Hon. John Atieno	Member
10. Hon. Julius Genga	Member

Committee Secretariat

1. Austine Ochieng	Committee Clerk
2. Edward Odanga	Hansard
3. Geoffrey Omollo	Secretariat
4. Dominic Muinde	Legal Counsel
5. Abraham Odegi	Serjeant-at-Arm

Challenges Encountered by the Committee during this Investigation

Mr. Speaker and Honourable members, the committee faced a lot of challenges during this investigation namely:

1) Hostile witnesses:

The Department played hard to get when pressed to furnish the committee with all the required documents that the committee needed to help it with this investigation. The team that appeared before the committee either did not have the documents that the committee needed for its work or they were not ready to respond to the committee's questions as required. At times, open arrogance was exhibited by the team even in their responses to the Committee.

2) External Interference:

Mr. Speaker and Hon. Members

According to the County Assembly of Kisumu Standing Orders No. 178, any member is at liberty to attend any committee session of a committee in which he or she is not a member subject to them not being allowed to vote during such committee meeting. The Public Accounts and Investments Committee is aware of this provision and has always striven to abide by it.

On 30th of September 2020 when the Committee was interrogating the CECM for Tourism, Culture, Arts and Sports, some non-members, to wit, the Majority Leader of the House, Hon Kenneth Onyango, Hon. Philemon Ojuok and Hon. Maurice Ngeta attended the session. The Honourable members however acted in a manner likely to suggest that they wished to influence the proceedings of the session and this made it hard for the committee to interrogate the CECM, Ms. Achie Alai and her team effectively. (Hansard Report, Annex 15)

- 3) Failure by the CECM, Ms. Achie Alai to honour our invitations several times on the indicated dates below:
 - i. 28th August 2020
 - ii. 17th September, 2020
 - iii. 5th October, 2020
- 4) Failure to provide the required tender documents by the Department of Tourism, Culture, Arts and Sports. The documents included;
 - i. The tender documents for EDON Consultancy and,
 - ii. For the construction of Moi Stadium
- 5) Ms. Achie Alai, on the day of interrogation was accompanied by the Acting Director for the Tourism Attraction Department and the Acting Chief Officer of the Department, Eng. Daniel Okia. It is edifying to note that both officers were not in the Department at the time when the events or activities being investigated took place. Their appearance before the Committee added little, if anything, to the Committee's investigation work.
- 6) Notably, one Mr. Thomas Ouko who was responsible when these issues were unfolding was left out of the team accompanying Ms. Achie Alai when appearing before the Committee. This dealt a hard blow to the Committee's fierce and relentless efforts in getting into the bottom of the matter in a timely and satisfactory fashion. The current Chief Officer is oblivious to the details of what transpired and thus his presence and input on this matter was inconsequential.

Acknowledgement

Mr. Speaker and Hon. Members, it is my privilege and pleasure to convey my gratitude to all Members of the Committee for their valuable input throughout the period of investigation into this matter.

I extend my warmest appreciation to Members of the Committee for taking their valuable time out of their busy schedules to participate in the activities of the Committee for the entire period culminating in the production of this Report.

The Committee also appreciates the invaluable support from the offices of the Speaker and the Clerk who made it possible for the committee to carry out its work in various ways.

To our Clerk and the technical staff who worked tirelessly to beat all the odds and make this exercise a success, I thank you and applaud your tireless efforts.

I now hereby submit this Report to the House for consideration on behalf of the Public Accounts and Investments Committee.

The Speaker (Hon. Oraro): What is Hon. Leader of Majority?

Leader of Majority (Hon. Onyango): On a Point of Order. Mr. Speaker, of course I know the Honourable Member is just highlighting the salient issues in that report. Mr. Speaker, if you look at the external interference then you will find and then this is very unfortunate that some Members have been adversely mentioned as having interfered with the writing of this report. I am one

The Speaker (Hon. Oraro): Honourable Leader of Majority is that in the report?

Leader of Majority (Hon. Onyango): It is in the report.

The Speaker (Hon. Oraro): Hon. Roy Samo, can you go through the entire report for the Hansard purposes.

Hon. Samo: That is why I requested that I go through certain parts of the report because the Honourable Members have the report so that the likes of Hon. Leader of Majority will be in a position to air the opinions.

The Speaker (Hon. Oraro): What is it Hon. Philemon Ojuok?

Hon. Ojuok: Thank you Mr. Speaker. Let the Member read the report word by word so that it can be captured in the Hansard.

The Speaker (Hon. Oraro): Hon. Samo, for me to be safe, let somebody propose and second that we go the guillotine way.

The Speaker (Hon. Oraro): Hon. Omoro Caleb.

Hon. Omoro: Mr. Speaker, I propose that the report be read word by word.

The Speaker (Hon. Oraro): That had been said by Hon. Ojuok. Hon. Roy Samo we have the time.

Hon. Samo: Mr. Speaker, Hon. Omoro want me to read the report word for word but I believe the Hon. Members have the report in their possession.

(Laughter)

The Speaker (Hon. Oraro): Hon. Samo, the report is not voluminous because we have the luxury of time just take Members through it.

Hon. Samo: Mr. Speaker, I thought Hon. Omoro would be able to help me go the guillotine way. Allow me to take the House through this report.

Hon. Samo: Pursuant to the Standing Orders NO.41 (2)(b) of the County Assembly Standing Order, a statement was raised by Hon. Johnson Guya in this House on 13th August 2020, on the construction/renovation of Moi Stadium (Annex 1). The statement highlighted concerns regarding the following:

7. The amount of money that was earmarked for the construction of Moi stadium;
8. The amount that had so far been appropriated for the project and the amount already spent for the same;
9. If there were any procurement process undertaken on the project;
10. The challenges that the concerned department had encountered in the implementation of the project;
11. When the project is expected to be complete and access to the facility granted to the public;
12. If there was any support received from the Federation of Kenya Football (FKF).

Honorable Speaker

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- f. Examination of the working of the Public Investments
- g. Examine the reports and accounts of the Public Investments and,
- h. Examine in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

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The Committee sought to inquire, investigate and report back to this Hon. House on the status of construction/renovation of Moi Stadium not only as to what was requested by Hon. Johnson Guya in his statement but also as a duty to the people of Kisumu who depend on our oversight role to check on any activity which might imperil the prudent use of public resources.

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14. Hon. Seth Okumu	Member
15. Hon. Johnson Guya	Member
16. Hon. Roy Samo	Member
17. Hon. Beatrice Pamella	Member
18. Hon. Nancy Owiti	Member
19. Hon. John Atieno	Member
20. Hon. Julius Genga	Member

Committee Secretariat

6. Austine Ochieng	Committee Clerk
7. Edward Odanga	Hansard
8. Geoffrey Omollo	Secretariat
9. Dominic Muinde	Legal Counsel
10. Abraham Odegi	Serjeant-at-Arm

1.4 Challenges faced by the Committee during this investigation

Mr. Speaker and Honourable members, the committee faced a lot of challenges during this investigation namely:

7) Hostile witnesses:

The Department played hard to get when pressed to furnish the committee with all the required documents that the committee needed to help it with this investigation. The team that appeared before the committee either did not have the documents that the committee needed for its work or they were not ready to respond to the committee's questions as required. At times, open arrogance was exhibited by the team even in their responses to the Committee.

8) External Interference:

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member subject to them not being allowed to vote during such committee meeting. The Public Accounts and Investments Committee is aware of this provision and has always striven to abide by it.

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- 9) Failure by the CECM, Ms. Achie Alai to honour our invitations several times on the indicated dates below:
- iv. 28th August 2020
 - v. 17th September, 2020
 - vi. 5th October, 2020
- 10) Failure to provide the required tender documents by the Department of Tourism, Culture, Arts and Sports. The documents included;
- iii. The tender documents for EDON Consultancy and,
 - iv. For the construction of Moi Stadium
- 11) Ms. Achie Alai, on the day of interrogation was accompanied by the Acting Director for the Tourism Attraction Department and the Acting Chief Officer of the Department, Eng. Daniel Okia. It is edifying to note that both officers were not in the Department at the time when the events or activities being investigated took place. Their appearance before the Committee added little, if anything, to the Committee's investigation work.
- 12) Notably, one Mr. Thomas Ouko who was responsible when these issues were unfolding was left out of the team accompanying Ms. Achie Alai when appearing before the Committee. This dealt a hard blow to the Committee's fierce and relentless efforts in getting into the bottom of the matter in a timely and satisfactory fashion. The current Chief Officer is oblivious to the details of what transpired and thus his presence and input on this matter was inconsequential.

Acknowledgement

Mr. Speaker and Hon. Members, it is my privilege and pleasure to convey my gratitude to all Members of the Committee for their valuable input throughout the period of investigation into this matter.

I extend my warmest appreciation to Members of the Committee for taking their valuable time out of their busy schedules to participate in the activities of the Committee for the entire period culminating in the production of this Report.

The Committee also appreciates the invaluable support from the offices of the Speaker and the Clerk who made it possible for the committee to carry out its work in various ways.

To our Clerk and the technical staff who worked tirelessly to beat all the odds and make this exercise a success, I thank you and applaud your tireless efforts.

I now hereby submit this Report to the House for consideration on behalf of the Public Accounts and Investments Committee.

INVESTIGATIONS INTO THE MATTER OF THE CONSTRUCTION/RENOVATION OF MOI STADIUM

Preface

The Committee commenced its work by writing a letter dated 19th August 2020 to the Department of Tourism, Culture, Arts and Sports through the County Secretary to provide a detailed response on the same. (Annex 2)

The Committee while working under strict timelines, requested the Department to respond on a date not later than 24th August, 2020. The Department did not abide by the Committee's request in this regard.

The Committee was forced to write a reminder to the Department on 25th August, 2020 (Annex 3) along with an invitation (Annex 4) for the CECM, Ms. Achie Alai to appear before it on 28th August, 2020. Ms. Achie Alai responded vide a letter (Annex 5) stating that she was not in a position to attend to the invitation due to prior official engagements on the indicated date.

Mr. Speaker and Hon. Members, on 26th August 2020, a response (Annex 6) from the Department was delivered to the County Assembly of Kisumu and the Committee Clerk subsequently tabled the response before the committee members in a committee meeting held on 28th August 2020.

Responses from the Department of Tourism, Culture, Arts and Sports

Mr. Speaker and Hon. Members, on behalf of the Public Accounts and Investments Committee, allow me to highlight the contents of the response as received by the Committee on this weighty matter:

1. That an estimated Total cost of 1.4 billion was earmarked for the construction of Moi Stadium;
2. That during the following financial years, resources were allocated to the project as follows:-
 - a) 2018/2019 – Kshs. 130 million was appropriated and Kshs. 89 million spent which was part of the 10% contract sum signed by the County Attorney for Consultancy works. The services of EDON Consultancy were procured for this purpose.
 - b) 2019/2020 – Kshs. 100 million appropriated but was not spent due to stoppage by EACC.
3. That the following processes and/or documents were undertaken/issued;
 - a) Request for procurement
 - b) Advertisement
 - c) Opening/Evaluation of tender
 - d) Award/Regret letters
 - e) Contract was signed
 - f) There was no LSO issued
4. That the departmental budgetary ceiling provided made it impossible for the department to allocate sufficient amount of funds for the project ,
5. That stoppage by Ethics and Anti-Corruption Commission are the challenges that have been faced in the implementation of this project,
6. That the department is waiting for further guidance on the completion of the project once the Ethics and Anti-Corruption Commission concludes its investigations,
7. That there is no encounter contributions so far from the Federation of Kenya Football (FKF).

Mr. Speaker and Hon. Members, I wish to inform this House that the Committee was not satisfied by the response from the Department. The response raised more questions than answers as the Committee could not establish the following issues:

- 1) What informed the Kshs. 1.4 Billion costing for the project;
- 2) Whether due process was followed in the award for the tender for the project;
- 3) The Department failed to furnish the Committee with the list of bidders for this project;
- 4) The minutes for both opening of the tender and evaluation were not provided to the Committee;
- 5) The award letter to the company who won the tender was not provided to the Committee;
- 6) The Committee could as well not establish whether the balance of Kshs. 41 million was spent or not;
- 7) The regret letters to the companies who lost were also not made available to the Committee;

- 8) The department could not explain why they went ahead to secure consultancy services for a project which was not budgeted for.

Consequently, the Committee invited the CECM Ms. Achie Alai to appear before it and explain her submissions verbally on 17th September 2020 vide a letter dated 8th August 2020 (Annex 7)

Her Office vide a letter dated 15th September 2020, responded informing the Committee that the Ms. Achie Alai was not in a position to attend to the Committee invitation on the indicated date due to a prior official engagement and requested that the Committee accords her a hearing on 30th September, 2020 (Annex 8).

Mr. Speaker and Hon. Members, the Committee accepted Ms. Achie Alai's request to appear before it on 30th September 2020 on which date, she finally made appearance before the Committee. (Annex 9)

Submissions of the County Executive Committee Member and her Team

Mr. Speaker and Hon. Members, when Ms. Achie Alai and her technical team appeared before the Committee, the Committee basically wanted them to expound on the earlier responses from the department and support them with all the necessary/valid documents pertinent to the matter at hand.

The Committee also wished that the first question in which she had made the claim that Kshs. 1.4 billion had been earmarked for the construction of Moi Stadium be addressed.

Ms. Achie Alai in trying to explain before the Committee what informed the Kshs. 1.4 Billion costing, stated that the Department was guided by the following;

- 1) The standard costing of building a stadium in the Country from scratch;
- 2) The International Standards as accredited by FIFA (decency and modernization);
- 3) The detailed Stadium design as provided by EDON Consultancy

However and to the great disappointment of the Committee, Ms. Achie Alai and her team failed to produce the Bill of Quantity to support their response on what informed the costing of this project. The committee also questioned how the design by EDON Consultancy could inform the Kshs. 1.4 billion costing while the consultancy works came much later.

Benchmarking the Department's Project Agenda with Similar Projects

Mr. Speaker and Honourable Members, the Department wished to build a stadium of FIFA Standards. This was the implication of the responses made by the Department. The Committee in trying to understand this, took a look at the details of the stadiums which had attained FIFA

Standards in the country. Facilities which could be benchmarked in regards to this project include:

(A) Dandora Stadium

The stadium has the following features;

- i. Artificial turf;
- ii. 12, 000 seats;
- iii. A gym centre ;
- iv. Modern stalls;
- v. Floodlights

Mr. Speaker and Hon. Members, it is important to note that this stadium was constructed at a cost of Kshs. 350 Million.

B) Nyayo Stadium

The stadium was renovated at a cost of Kshs. 650 Million and currently have the following features:

- i. 30,000-seater;
- ii. FIFA approved standard size football pitch;
- iii. Aquatic Centre;
- iv. Handball and Volley ball training Courts

To crown it all, President Uhuru Kenyatta recently launched the construction of Jomo Kenyatta International Sports Stadium at Mamboleo Showground in this County at a cost of Kshs. 350 million.

Mr. Speaker and Hon. Members, after looking at the cost at which the Dandora and Nyayo Stadiums were constructed and renovated respectively, the committee could not be convinced by the department's submission on what informed the Kshs. 1.4 billion costing even after highlighting the features that they wanted for the stadium.

Even though all these details could have been possible to believe with the availability of the Bill of Quantity, it was not availed even at the Committee's request. The Committee once again felt unsatisfied with the responses from Ms. Achie Alai and her team as there was not much information of substance to support the explanations they gave. The Committee therefore treated all these as mere hearsay.

Also, in their verbal response, Ms. Achie Alai and her team explained that they did not have in their possession most of the documents related to this project. Ms. Achie Alai explained that the

Ethics and Anti-Corruption Commission had written to them through the County Secretary to request for the documents which they released to the Commission. She however failed to produce the letter from the Ethics and Anti-Corruption Commission.

Inevitably, the Committee found it hard to believe that a whole Department could release original documents without remaining with copies/back up documents.

In addition, Ms. Achie Alai and her team informed the Committee that some of the documents related to the project could be accessed through the Central Procurement Division domiciled at the Department of Finance and Economic Planning. A letter to the effect from the Department requesting for the documents was handed over to the Committee (Annex 10).

The Committee was informed that vide a letter dated 29th September 2020, the Department of Finance and Economic Planning responded to the Department stating that the requested documents were with the County Attorney and the Ethics and Anti- Corruption Commission. (Annex 11).

Ms. Achie Alai and her team also stated that they received a verbal response from the County Attorney who responded by saying that the documents had been released to the Ethics and Anti-Corruption Commission. A written response from the County Attorney in this regard was not produced.

Mr. Speaker and Hon. Members, the team informed the Committee that all projects worth more than Kshs. 3 million were handled by the Central Procurement under the Department of Finance and Economic Planning. This information was supported by a memo (REF: KC/FIN/CIRC/VOL. II/49) dated 12th October, 2020 from the County Executive Committee member for Finance and Planning, Mr. George Okongo. (Annex 16)

The department however failed to provide the committee with the instruction to the Central Procurement as part of the initiation for the project. The committee also noted that Ms. Achie Alai in her submissions, tried to run away from her responsibility of co-ordination in the department of Tourism, Culture, Arts and Sports. The above Memorandum also supports the fact that no procurement could begin without the knowledge of the County Executive Committee member, Ms. Achie Alai, and the fact that it is her role to co-ordinate the department.

Mr. Speaker and Hon. Members, the committee was not able to come to a conclusion on this matter even after interrogating Ms. Achie Alai and her team. The Committee therefore instructed the team to appear before it once again on 5th October 2020 with all the requested documents to enable the Committee to bring the matter into conclusion. Ms. Achie Alai however failed to turn up for the meeting on 5th October, 2020 as had been agreed.

COMMITTEE FINDINGS

Mr. Speaker and Hon. Members, the Public Accounts and Investments Committee established the following in regards to this matter:

1. The project was first captured under the City of Kisumu Allocation during the Financial Year 2017/2018 and an amount of Kshs. 7 Million was earmarked for renovation of Moi Stadium. Part of this budget (Kshs. 4 million) was used to renovate the stadium during the planned visits by the Brazilian football legend, Ronaldinho and the remaining balance (Kshs. 3 million) was taken back to the Departmental pool.
2. Renovation included painting, washroom renovations, paving of the slabs around the stadium and repairing the cracks on the walls.
3. In a file that was handed over to the committee (for the renovation of Moi Stadium by Glory Investments Limited), the LSO was issued on a date earlier than the date that the acceptance letter for the contract was signed, a fact that the department could not explain. (Annex 17)

Mr. Speaker and Hon. Members, kindly note that before an LSO is issued, the winning bidder has to accept the award first vide an acceptance letter.

4. Ms. Achie Alai deliberately committed the County to a debt of Kshs. 1.4 Billion. By default, the County would be forced to repay Kshs. 100 Million per year for 14 years for one project and whether the stadium construction would last for 14 years, only the Department can tell. If inflation trend in this Country is factored in, and by the end of the 14 year period, we shall be talking about a huge amount of money committed to a project with no discernible commensurate pay off abilities.
5. Paying Kshs. 100 million per year for 14 years for one project was too much and unrealistic as this money can help fund many projects that would go a long way in taking our county to the next level.
6. The Committee could not establish the source of funds to finance the planned Kshs. 1.4 Billion Stadium Complex Construction as the only item mentioned in the CIDP 2018 – 2022 was the possibility of engaging in a Public Private Partnership (PPP). However, as at the time of commencing the project, the Department had not hammered out the requisite framework or platform for the PPP engagement.
7. This project has not been captured in any of the Annual Development Plans (ADPs) since 2018. It is important to note that it is the Annual Development Plan which informs the budget.
8. There was no budget allocation for the Construction of Moi Stadium. What was in the budget during the financial year 2018/2019 was Kshs. 130 Million for renovation of the same Stadium.
9. The CECM Ms. Achie Alai, in her submissions, claimed that there were four major anticipated sources of funds for the project:

- i. The National Government: the fact that the Government planned to build a stadium in each and every County meant that Kisumu County could have been one of the beneficiaries of the Government program.
- ii. The County Government of Kisumu: through the CIDP, the county Government had in place a program to allocate Kshs. 100 Million annually for the stadium project and for the costing of Kshs. 1.4 Billion, the County would be repaying this debt for 14 years for one project.
- iii. Donor funding; However, the CECM could not provide the Committee with the names of the envisaged donors for the program
- iv. Public Private Partnership (PPP) Framework: the modalities for carrying out this method of project financing have not been defined or clearly spelt out by Department.

The CECM, Ms. Achie Alai was unable to provide veritable evidence of commitment from the National government, Donors and Private partners to the envisaged project.

10. The Committee was not able to establish a definite timeline for the completion of the project from the Department.
11. The committee observed that the whole idea of an international/stadium complex was a fraud from inception. In the Kisumu County Second County Integrated Development Plan, the following is captured:
 - i. Construction of an International Sports Centre/Stadium for Kshs. 100 Million under Public-Private Partnership (PPP) arrangement;
 - ii. Rehabilitation of Sports Stadia and Fields for Kshs. 100 million. (Pg 171,Annex 12)
12. In the same County Integrated Development Plan under flagship and transformative projects, the following projects are captured; (Pg 220 and Pg 222)
 - i. Construction of Ultra-Modern Sports Complex for Kshs. 1 Billion and ;
 - ii. The construction of an International Sports Stadium for Kshs. 2 Billion. (Annex 13)

Mr. Speaker and Hon. Members, a simple arithmetic on the above figures gives us an amount of Kshs. 3.2 billion for the construction of Moi Stadium from 2018 to 2022.

The Committee felt driven to question the feasibility of the plan considering the National Allocation to the County, revenue collection and the fact that other departments also have projects to implement.

13. The former Chief Officer in the Department, Mr. Thomas Ouko in his submission, stated that the procurement process started by an advertisement of the reconstruction of Moi Stadium to which the following eight companies responded:
 - i. EpcO Builders Limited;
 - ii. China Jiangxi International Limited ;

- iii. M/s Sahjanad Construction Limited;
- iv. Milicons Limited ;
- v. Parbat Construction Limited;
- vi. Capital Construction Limited;
- vii. CRJE East Africa Limited ;
- viii. Rasamaal Group Limited

14. He added that M/s Sahjanad Construction Limited was awarded the tender for the stadium complex at a tender sum of Kshs. 1.4 Billion.
15. However, it was not clear to this Committee how the tender process was executed as the Department failed to furnish the Committee with both the tender opening minutes and the tender evaluation minutes.
16. Two bidding companies wrote protest letters to the Public Procurement and Regulations Authority, questioning the award of the tender to the said M/s. Sahjanad Construction Company Ltd

Other Emerging Issues

Mr. Speaker and Hon. Members,

1. The Committee in its investigation got hold of a letter dated 5th August 2019 (Annex 14) from the Director Supply Chain Management, Mr. Stephen Onduu to the then County Attorney, Mr. Victor Obondi, asking for guidance before the main contract could be signed as there was no budget for the flagship project.
2. Ms. Achie Alai in her submission, stated that, in a cabinet meeting in regard to this matter, it was resolved that since there was no budget for the project, H.E The Governor would consult the Kisumu County Assembly members in order for them to agree and appropriate Kshs. 1.4 billion for the project
3. The fact that Mr. Stephen Ondu, the Director Supply Chain Management was asking for guidance in regards to funding of the project clearly confirms that the department implemented a project to which funds were not allocated and is indicative of breach of the Public Procurement and Asset Disposal Act Section 53 (8) & (9). This section states that...

The Speaker (Hon. Oraro): Hon. Samo.

Hon. Samo: Yes, Mr. Speaker

The Speaker (Hon. Oraro): I was just trying to follow up on your presentation from 3.0 on Committee Findings.

Hon. Samo: Yes, Mr. Speaker.

The Speaker (Hon. Oraro): You read up to number 16 but I was lost when I reached No. 6. I do not know if I have the same report or if the report in my possession is different

Hon. Samo: May be if you could confirm. Mine is as it is being read. From page No. 1 to 12.

The Speaker (Hon. Oraro): Which page is that?

Hon. Samo: Mr. Speaker, page No. 12. The Committee Findings are indicated under section 3.0. It runs from No. 1-7. And on page 12 is numbers 8, 9, 10, 11 and 12. That is page number 13.

(Hon. Speaker making reference to the reports)

The Speaker (Hon. Oraro): Where is the Clerk?

Leader of Majority (Hon. Onyango): Mr. Speaker, if you look at page number one which contains that Preamble up to number 7. Then on page 13 has number 8 up to number 24.

The Speaker (Hon. Oraro): Wait a minute. Let me consult.

(The Speaker consults Clerk-at-the- Table)

The Speaker (Hon. Oraro): Hon. Samo, you may resume your seat as we consult further. What I have is totally different. Is it the same copy that was laid or is this a different copy? Unless I am reading a different report. Let me share with you on WhatsApp the copy that was laid before the House.

(The Speaker consults Clerk-at-the- Table)

The Speaker (Hon. Oraro): Mr. Clerk, I thought you were to call someone to assist. Members, I have already shared with you the scanned copy of what was laid before the House. I have share it on the WhatsApp Forum.

(The Speaker continues consulting with the Clerk-at-the- Table)

The Speaker (Hon. Oraro): The document has already been shared. Kindly check and confirm if it is the same document that I am reading.

The Speaker (Hon. Oraro): Yes, Hon. Jagongo.

Hon. Jagongo: Mr. Speaker, I want to concur with you and also conform to the House that what was laid before this House is totally different from the report Hon. Samo is reading. May be this report has been doctored because whatever was laid is totally different from whatever is being read. I have a copy of the report that was laid.

The Speaker (Hon. Oraro): Honourable Member, the gentleman I have talked to is the Committee Clerk. He has said that after the report was laid, they sat and added some information which explains the disparity in the two reports.

The Speaker (Hon. Oraro): What is it Hon. Seth Okumu?

Hon. Okumu: On a Point of Order. Mr. Speaker, if that is the situation, then it will be interesting for us to discuss two different reports because the report we have is that which was laid. The report that Hon. Samo is reading is a different report that they made as a committee and has not been laid before this House. Therefore, I request that we resort to the report that was laid for it is the official document of the House. Thank you.

The Speaker (Hon. Oraro): Hon. Roy Samo, your Committee Clerk has told me that after the report was laid, you added some information. Can you confirm this?

Hon. Samo: Mr. Speaker, it would be difficult to confirm this. When I entered into the House, I just picked my copy that had been made available. In fact, it was handed to me by the Sergeants. Confirming if the reports differ would seriously take me a long time. However, it is within your discretion Mr. Speaker to either read that which was laid or suspend this session to enable us confirm the two reports. Otherwise, I stand guided by you Mr. Speaker.

The Speaker (Hon. Oraro): What is it Leader of Majority?

Leader of Majority (Hon. Onyango): On a Point of Order. Mr. Speaker, you now it is the committee's mandate to sit down and look at a report either to adopt or reject it. From what the Honourable Member is saying, it is like after the report had been laid, the committee never sat down to adulterate the report. Does it therefore mean, Mr. Speaker, that a Member or two Members at the entire exclusion of the committee connived with the clerk to adulterate the report?

Hon. Samo: Mr. Speaker, I think that is now going to the extreme...

The Speaker (Hon. Oraro): Hon. Roy, I will give you time.

Leader of Majority (Hon. Onyango): Mr. Speaker, the reason I am raising this is because we must give reverence to the sanctity of this House. And we must give maximum premium to the procedures of this House. Therefore, it would be ridiculous, to say the least, that after a report has been formally tabled then someone can have the audacity to singularly or severally decide to adulterate the report. That is a very big concern Mr. Speaker that I would wish all Members in the House should be concerned.

The Speaker (Hon. Oraro): I had noticed Hon. Arao. I have noticed you Hon. Steve and Hon. Atieno

Hon. Arao: Thank you Mr. Speaker. Mr. Speaker, I have heard from the horse's mouth, Hon. Roy Samo, stating that he given the report by the Serjeant-at-Arms. I get concerned because the Chair is absent. May be the Chair has the correct report. I suggest we give the committee time. This report is dead on arrival Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Steve.

Hon. Owiti: Thank you Mr. Speaker, Sir. I believe that this PIC/PAC Committee wants to take this House for granted. This was their report which the Chair tabled before this House. Now, at the time of reading the report, the report is different from what was laid. Mr. Speaker, you have also confirmed with the Committee Clerk who has admitted that the report was changed. I think this is an illegality. Therefore, Mr. Speaker, there is no way we can admit this report for discussion. We want the report that was initially tabled so that we work on it.

The Speaker (Hon. Oraro): Honourable Members, allow me to refer to Standing Order No. 1. Based on its provisions, I want to suspend the House for ten minutes to allow us deliberate on this. Once the House is suspended, the Hansard will not record.

(The Speaker suspends the House for ten Minutes)

(House resumes after the expiry of the ten minutes suspension)

The Speaker (Hon. Oraro): Honourable Members, I did direct that the House suspends for ten minutes. I have consulted PIC/PAC Committee members, the Leader of Majority, the Leader of Minority who is also a Member of PIC/PAC. We have looked at the two reports and what is coming out is like amendments.

Hon. Members, I want to direct that any time a report has been laid and there are amendments, the presenter can do so in the process of presenting or even the seconder in the process of the debate. I want to direct that we treat that as additional information and therefore allow Hon. Roy Samo to continue with the presentation to the end so that we handle the matter at hand.

The Speaker (Hon. Oraro): Hon. Samo.

Hon. Samo: Thank you Mr. Speaker for your able guidance. Hon. Speaker, I had read the report up to page number 19 and moving to page number 14. Just to bring Hon. Members up to speed

Mr. Speaker and Hon. Members, in the figures given an amount of Kshs 3.2 Million. I am sorry we had covered no. 14. We now move to number 15.

4. The fact that Mr. Stephen Ondu, the Director Supply Chain Management was asking for guidance in regards to funding of the project clearly confirms that the department implemented a project to which funds were not allocated and is indicative of breach

of the Public Procurement and Asset Disposal Act Section 53 (8) & (9). This section states that:

(8) An Accounting officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

(9) An accounting officer who knowingly commences any procurement process without ascertaining whether the good, work or service is budgeted for, commits an offence under this Act.

5. Even after several requests to the Department, the Committee was unable to get the required documents for the EDON Consultancy tender.
6. This Committee established that the Department had in its FY 2018/2019 a budget of Kshs. 130 Million for the mentioned stadium complex renovation. The Committee could not however establish what happened to the remaining Kshs. 41 million even after payment of Kshs. 89 million to EDON Consultants which was only 55% of what was to be paid. The scope of what was done by the EDON consultants to warrant the Kshs. 89 million payment was not made clear to the Committee.
7. The committee was informed that consultancy works were undertaken on County Branding for an amount of Kshs. 40 million. The committee however could not establish how the Kshs. 40 million was spent.
8. The committee also established that audit queries were raised on the County Branding Consultancy Works and a recommendation to terminate the contract was made.

COMMITTEE RECOMMENDATIONS

Mr. Speaker and Hon. Members,

1. That an administrative action be taken against the officers responsible for procuring the services of EDON Consultancy illegally since there was no budget allocation for the project leading to Kshs. 89 million loss for the County
2. That no money be allocated to the stadium project until such a time when the Department is able to furnish the Assembly with all the required information regarding its feasibility and probity in the implementation framework.
3. That the planned construction of the said stadium was unrealistic. The Committee therefore recommends for rehabilitation of the stadium to be carried out instead.
4. That Ms. Achie Alai is not fit to hold the office of the County Executive Committee member for Tourism, Culture, Arts and Sports. If she were, she would not go ahead to commit the County to a Kshs. 1.4 billion debt considering the low revenue collection in the County.

5. That the County Executive Committee member, Ms. Achie Alai must be held accountable for abuse of office and all the mess that has been occasioned in this project for the following reasons;
 - i. The Procurement process starts by a requisition from the user department which was the Department of Tourism, Culture, Arts and Sports in this case.
 - ii. The Central Procurement could not start the procurement process without instructions from the user Department
 - iii. The County Executive Committee member has a role to manage and co-ordinate the functions of the Department.
 - iv. The County Executive Committee member, fully aware that the project was not budgeted for, went ahead to request for procurement against the cabinet resolution.
6. That the then County Attorney, Mr. Victor Obondi failed in his duty to advise the department and the County at large and therefore breached the Kisumu County Attorney Act.
7. Both the Department of Tourism, Culture, Arts and Sports and the Department of Finance and Economic Planning are in breach of the Public Procurement and Asset Disposal Act Section 53 (8) & (9) for advertising and procuring for a project which is not in the budget. This section states that:

(8) An accounting officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

(9) An accounting officer who knowingly commences any procurement process without ascertaining whether the good, work or service is budgeted for, commits an offence under this Act.

That the following officers must be held accountable;

- a) Former Chief Officer in the department of Tourism, Culture, Arts and Sports, Mr. Thomas Ouko
 - b) Former County Executive Committee member for Finance and Economic Planning, Mr. Nelly Achar
 - c) The then County Attorney Mr. Victor Obondi
8. The Committee also wishes to recommend that, H.E the Governor, relieves the County Executive Committee member, Ms. Achie Alai of her duties or the Assembly to start impeachment proceedings against her.

CONCLUSION

Mr. Speaker and Honourable Member,

We as members of this House are the appointed custodians of public good. We have a duty to ensure that those who hold public positions follow the law and act in accordance with all the set rules that grant them their mandate to serve the people of this County of Kisumu.

It therefore behooves a clear sense of duty to send a stern warning to all public servants who are not acting in accordance to their mandates and are abusing their offices.

It is therefore my honour and privilege, on behalf of the Public Accounts and Investments Committee to request this house to consider for approval, the prayer of the committee and further to table this report before this Honourable House for Consideration. I would like to call Hon. Nancy Owiti to second. Thank you Mr. Speaker and Hon. Members

Hon. Samo: Mr. Speaker, please allow me to call upon Hon. John Atieno to second this report.

The Speaker (Hon. Oraro): Hon. John Atieno.

Hon. Atieno: Thank you Mr. Speaker. I wish to dishonour the request by Hon. Roy Samo. I was not part and parcel of this committee when they were preparing this report. I wish to advise him to call another seconder.

The Speaker (Hon. Oraro): Hon. Samo.

Hon. Samo: Am sorry. I have noticed that.

The Speaker (Hon. Oraro): What is it Hon. Arao?

Hon. Arao: I want to inform the Member that neither did Hon. Beatrice Pamela signed the report.

Hon. Samo: That can be corrected because the Hon. Beatrice has been part of this all through.

The Speaker (Hon. Oraro): Honourable Members, you are aware that when a report comes to the House, the authority is the signature of the Chair. Let me give the opportunity to Hon. Beatrice Pamela.

Hon. Beatrice Pamela: I second.

The Speaker (Hon. Oraro): Thank you. Now that the Public Investments and Accounts Committee Report on the Renovation/Construction of Moi Stadium has been moved and seconded by Hon. Roy Samo and Hon. Beatrice Pamela respectively, I want to open it for debate.

The Speaker (Hon. Oraro): Hon. Jagongo Vincent.

Hon. Jagongo: Thank you Mr. Speaker. I want to open the Floor by opposing this report. I am disappointed with this House Committee because of the manner they have handled this issue. This was a good case for the Assembly and I don't know why most of their Member decided to skip this afternoon session. I believe that they ought to have honoured this report first but looking at the disjointed behaviour that we are seeing, it means they don't own this report.

Two, if you go to recommendation two and three, they are conflicting. One is money should be allocated and the other talks about no money should be allocated. With those few remarks, I oppose this report. Thank you.

The Speaker (Hon. Oraro): Yes Hon. Misachi.

Chief Whip (Hon. Misachi): Thank you Mr. Speaker. Let me say the following. The recommendations of the committee are very good if they could all be here. I want to say that as a House of rules, I believe a case that has been taken to a higher office like EACC should be discussed at a committee level. So, I disqualify myself from discussing this report because the matter is with the EACC. Let us wait for their findings. I represent the stadium.

The Speaker (Hon. Oraro): Hon. Steve Owiti.

Hon. Steve: Thank you Mr. Speaker. I want to say that this matter of the stadium is a matter that is very contentious and it is a matter that has been of concern to this Assembly. This investigation was a result of Statement that was raised by Hon. Johnson Guya. When looking at the recommendations that are given here, I want to say that, these are not recommendations because a recommendation must have an action point. These are observations. Look at recommendation No. 6. That is an observation. Look at No. 4?

Mr. Speaker, we need to honour and respect this House. When you present a report to this House and you say you are recommending, you should tell us the action point. We need recommendations not observations.

Secondly, it is true that this matter never started yesterday and in many consultative meetings. This matter has come up and I want to say before this House that, this matter was even raised during the budgeting process and we were informed very authoritatively that the matter had been handed over to EACC. We are waiting for the report and recommendations of EACC so that action can be taken. In the event that that arm of the Government which is established by the Constitution of Kenya fails then, as an Assembly in our oversight role, we shall look at what we need to do about this when the facts are laid. But, some of the issues raised in this report are hearsay and personal opinions and we are saying they are recommendations.

Mr. Speaker, I want to say that, let this House Committee be serious and know that the magnitude of the matter they are handling is not child play. We want facts and we want things that can be implemented. Otherwise, I oppose these recommendations and say that let the House Committee go sit and do their work properly and professionally or disqualify themselves, or the House constitutes an Ad Hoc Committee to handle the matter. I oppose Mr. Speaker.

The Speaker (Hon. Oraro): Let me consider gender and give Hon. Beatrice Odongo. I have noticed you Hon. Seth.

The Speaker (Hon. Oraro): Sergeant-at-arms, can you assist the Members on microphones.

Hon. Beatrice Odongo: Thank you Mr. Speaker. Allow me to oppose the report. First, I believe that budget is passed in this House. I do not remember the Assembly passing a budget of Kshs. 1.4 billion for the Construction of the Moi Stadium. In the first place, I never expected the committee to talk of Kshs. 1.4 billion because that amount has never been passed in this Assembly.

Secondly, I want to look at the recommendations, especially No. 4. The House Committee has indicated that it is the minister who committed the money to be paid for the Construction of the Moi Stadium. If I can remember, I doubt if it is the role of the committee to commit funds towards development activities.

Lastly, Mr. Speaker Sir, if I look at the recommendations that is No. 9. The House Committee is recommending that the Governor relieves the CEC Member of her duties. They have not given the Governor any reason to relieve her of her duties. In addition, they are saying that the Assembly can go ahead and impeach the CEC. What are the reasons for this?

Mr. Speaker Sir, I want to request the House Committee that, it is very unfortunate that the Chairperson is absent. With such a report, she would have been here to defend what is in this report. I want to join the Honourable Chief Whip that the issue of the stadium is with the EACC. Why should we waste time having this report brought here? Therefore, Mr. Speaker, I want to request the PIC/PAC Committee; this is not the first report that is being opposed on this Floor. This is the second one. Then it seems there is a problem with the Committee; either with the composition or the leadership of that committee. So, something should be done.

Without saying much Mr. Speaker, I oppose the report fully and I want to request this House that we be serious. If you are a Chair and you do not understand your roles, you can simply resign and let other people who are able to deliver towards that Committee to do their work. Thank you. I oppose.

The Speaker (Hon. Oraro): Yes, Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker. Mr. Speaker, may I join my colleagues in opposing this report, and these were my sentiments even when we were at the Committee level. Honourable Speaker, the basis for this report in the House today is found in Annex 1 of the report. Honourable Speaker, this report was to reply to a Statement that was raised by Hon. Johnson Guya. Even before I go to that, it is clear that we had two reports today. The one that was initially laid before this House and that which was read are two different reports. Why would we support a report that we did not bring before the House?

Mr. Speaker, if you look at that Annex 1, the questions were very simple to the PIC/PAC Chair.

- a) How much money has been earmarked for the Construction of Moi stadium?
- b) How much as so far been appropriated and how much has been spent.
- c) If there are any procurement processes undertaken, provide details of the same.
- d) Any challenges so far encountered in the project implementation, when is the project expected to be completed for use by the public, any counter contribution so far?

Hon. Okumu: Hon Members, it will take this House several days to find answers to the questions in the report that has been brought before this House. The Chairperson decided to form other questions and answer them rather than answering to questions that were raised in the statement read in this House.

Secondly, even in answering those questions in a committee meeting, it is mentioned in the report that the Hon. Leader of Majority was a problem but when you go through the Hansard report of the date in question, you will see the submissions of all honorable Members, the first time that the Leader of Majority talked in that meeting as in page 17 of the Hansard report was and I quote “Excuse *me Chairperson.*” So I don’t know how that statement was a problem to the Chairperson.

If you look at Hon. Philemon Ojuok’s first statement and I quote “*We will not sit here and flout rules in this committee.*” Mr. Speaker it is witch-hunt for it to be written that the Honorable Members were interfering with the House Committee and yet, we have the Hansard report of that day but we cannot see anywhere indicating some kind of commotion by Members or where the Leader of Majority is interfering with the meeting. I want to say that this report is malicious and it does not meet that threshold and admissibility.

Lastly, if you look at the annexes that have been mentioned in this report against the questions that were being answered, and if you look at the conclusions and recommendations being made, they are saying that Kshs. 1.4 billion was procured for the Construction of the Moi Stadium but when I look through the annexes, I can’t see anything to that effect. I want to conclude by supporting what Hon. Priscah Misachi said that; it is too late for the Chairperson of PIC&PAC to try doing anything with regard to Moi Stadium. The only place that we would take this report is at the EACC that is if it was a sensible report. However, the EACC was too quick to notice the

foul and went ahead to request for the files that they had used which cannot be seen by the committee in question. So, if the House Committee is telling us that, they made conclusions on this project using files that they did not see and are still missing, this Committee is misleading this House. Otherwise I want to declare that I oppose this report from the PIC&PAC Committee, thank you.

The Speaker (Hon. Oraro): Yes Hon. Atieno Atieno.

Hon. Atieno: Thank you Mr. Speaker, I want to present my rebuttals concerning the submissions made by Hon. Priscah Misachi and reinforced by Hon. Beatrice that the fact that this issue is in the hands of the EACC, then this House has no jurisdiction to discuss it. This is an independent institution and we cannot be held hostage by the EACC therefore we are at liberty to discuss anything that we feel is beneficial to this House.

Mr. Speaker, with a report of this magnitude that could send somebody home, why is the Chairperson of the Committee as well as the Member who raised this statement absent? That action raises a lot of curiosity on what they actually know about this report. It is in this line that I am hesitant to support this report and especially if the Vice-chairperson present is not also in support of the same.

The Speaker (Hon. Oraro): Yes Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Thank you Mr. Speaker, I am for the person who stands up for principles and truth in spite of the situation at hand. I have heard my colleagues saying that this project should not have been investigated but this House Committee went ahead with the investigation based on a statement that was raised in this House and committed to the PIC/PAC Committee. In the process, the PIC/PAC Committee found some anomalies that are anchored in the law. When the Committee invited the CEC Member, who honored the invitation and came to meet the PIC/PAC Committee, she clearly told the Committee in verbatim that Kshs. 1.4 billion is the cost of building Moi Stadium. The PIC/PAC Committee in turn insisted to be shown where that is captured in the CIDP but the CEC member could not show us on the CIDP that we had. However, she said that she had a copy that backed her claim.

Mr. Speaker, the CIDP informs the ADP, therefore we requested her to show us where this project appears in the ADP, and the CEC Member acknowledged that the Construction of the Moi Stadium does not appear in the ADP for that Financial Year. In addition, she told the Committee that they had started the process of doing the project by awarding a Consultancy Firm a Contract for the Design the Moi Stadium. My concern as well as that of the Members who were present was how the project was going to be funded yet it neither appears in the ADP or in the budget.

Mr. Speaker, the provisions of Section 53 (8) of the Procurement and Asset Disposal Act of our laws, states that, an Accounting Officer must ensure that there are funds before they start any

project. Mr. Speaker, this project was initiated without funds available hence making it an illegality.

Hon. Owiti: A Point of Information Mr. Speaker.

The Speaker (Hon. Oraro): What is it Hon. Steve Owiti?

Hon. Owiti: On a Point of Order. Mr. Speaker, I believe that, there is information regarding the Kshs. 100 million that was approved in the Budget Estimates. So, as the Hon. Member, who is also a member of the committee is contributing and having talked about the Kshs. 1.4 billion, she should therefore help us see that commitment inform of an Local Service Order (LSO), LPO or any other thing to show that there is some commitment but here say cannot be used. All the annexes presented are missing that claim.

The Speaker (Hon. Oraro): Yes Hon. Beatrice Pamela

Leader of Minority (Hon. Oiko): A point of information Mr. Speaker.

The Speaker (Hon. Oraro): Who do you want to inform Leader of Minority?

Leader of Minority (Hon. Oiko): I want to inform the House Sir.

The Speaker (Hon. Oraro): Yes Kindly.

Leader of Minority (Hon. Oiko): Mr. Speaker, I want to alert the House to look at annex 6, which is the response by the CEC member for Tourism, Culture, Sports and Arts so that both Hon. Seth Okumu and Hon. Steve Owiti are answered.

Hon. Okumu: A point of Order Hon. Speaker.

The Speaker (Hon. Oraro): Yes please.

Hon. Okumu: On a Point of Order. Thank you Mr. Speaker, Annex 6 was the first reply to the statement in this House, which was sent back because the House Committee felt that the answers were not accurate. Secondly, I am requesting that when Hon. Beatrice Pamela is referring to statement by Hon. Achie on the day she came, we have the Hansard Report of that day which she can use to refer the House to her claim.

Hon. Owiti: A point of information Mr. Speaker.

The Speaker (Hon. Oraro): What is it Hon. Steve Owiti, I have not given you a chance yet because I have heard Hon. Okumu wants us to get reference of some facts and Hon. Oiko also referred you to some points..

Hon. Owiti: That is why I am responding

The Speaker (Hon. Oraro): Okay proceed.

Hon. Owiti: On a Point of Order. The annex 6 that he is referring to is not adequate proof as an Investigating Committee. There was commitment of Kshs. 1.4 billion because it was just a statement by the CEC. As they went further to investigate this matter to table a report here, they ought to have brought to us an LSO or an LPO to prove that there was a commitment of Kshs. 1.4 billion, which is against what was proved in the budget.

The Speaker (Hon. Oraro): Yes Hon. Roy Samo.

Hon. Samo: Thank you Mr. Speaker, going by what is being discussed in the House then Hon. Leader of Minority is entirely right because this is a statement by the Minister and even signed by her and in it is explaining that the total estimated cost of constructing the Moi Stadium is at Kshs. 1.4 billion. If that was our request to her, which she gave clearly therefore who are we again to counter that statement?

The Speaker (Hon. Oraro): Hon. Members, I want to rule you out of Order Hon. Roy Samo because I heard the contribution by Hon. Seth Okumu that; there was an initial statement raised by Hon. Guya with several questions, which was sent to the CEC and response received on 24th August 2020, touching on every question. However, the committee acknowledged the receipt of the response but replied to the response in rejection that it was not substantive.

Consequently, as Hon. Steve Owiti refers that as the Committee went further to investigate this matter to table a report here, they ought to have brought to us an LSO or LPO as a tool of commitment or proof. Then who commits? Is it the CEC or the Chief Officer? I think those were the question from Hon. Okumu and Hon. Owiti. Please be guided.

The Speaker (Hon. Oraro): I saw Hon Pete Oiko up

Hon. Oiko: Thank you Sir, what Hon Steve Owiti is raising is clearly spelt out here that the House Committee was crying out that they were unable to get the report of the same from the department. When we look at annex 6, signed by the Minister herself and again the Hansard report of page 2, which was verbatim...

The Leader of Majority (Hon. Onyango): Point of Order Mr. Speaker.

The Speaker (Hon. Oraro): What is it Leader of Majority?

The Leader of Majority (Hon. Onyango): Mr. Speaker, I wish that the Leader of Minority would be better than this because the CEC is in no capacity to commit a department to any expenditure because that's the work of the Chief Officer. We cannot come here to discuss issues of those who live in Disney world because there are those people who imagine things that are not achievable. However, when we come to this House, we want facts like the Hon. Steve Owiti, is saying that a commitment can only be guaranteed if

1. If it is in the budget?
2. If there is a commitment by the CEC that there is a due process being followed?

However, if a CEC Member whose major role is policy, can give some kind of wild imagination and you want to imagine that that is proof enough in the House then, my friend you can do better than that.

(Loud consultation)

The Speaker (Hon. Oraro): Hon. Members, do you know that you are taking up Hon. Beatrice Pamela's time? Hon. Leader of Minority, I wanted to rule you out of Order because I have referred to the same document you are talking about, which is dated 24st of August, 2020 and I am informed that it came but the Committee said it was not satisfactory. Otherwise, if the Committee would have been satisfied then it would have concluded the investigation.

The Speaker (Hon. Oraro): Yes Hon. Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker, you are right that is why they invited the Minister to come and explain herself on the same with documents, which she could not provide. When the Minister was talking physically and was being recorded in verbatim, she clearly stated that the project was estimated at Kshs. 1.4 billion. Which other record do you want the Committee to rely on?

The Speaker (Hon. Oraro): Is that a commitment?

Leader of Minority (Hon. Oiko): Yes, that is why we are saying that when we wanted the Tender Documents for the Consultancy Firm as well as those of the Moi stadium, they declined to provide. This is what is captured in the minutes. What else can this Committee do in this regard? We know that the Minister does not sign the documents but the Chief Officer does. It is the work of the Minister to coordinate this.

The Speaker (Hon. Oraro): Hon. Pete Oiko, your point is taken. Members you are eating into Hon. Beatrice Pamela's

Hon. Ogotu: A Point of Order Mr. Speaker.

The Speaker (Hon. Oraro): What is it Hon. George Ogotu?

Hon. Ogotu: On a Point of Order. I believe that Hon. Pamela will just get her time. I find it very queer when we are defending certain things. I have just heard the Leader of Majority saying that it is the work of the CEC to sign...

The Speaker (Hon. Oraro): Hon. Member, I want to rule you Out of Order because the Leader of Majority did not say that the Minister...

Hon. Ogutu: Mr. Speaker, why don't you allow me to express my submissions first.

The Speaker (Hon. Oraro): Okay proceed.

Hon. Ogutu: I believe that we often do impeachment in this House, and when former CEC Finance Mr. Nerry Achar was being impeached, nobody questioned what the Chief Officer did in the process. It is said that the fish starts to rot from the head, and in this case, the head is Mrs. Achie Alai.

The Speaker (Hon. Oraro): What is it Leader of Majority?

The Leader of Majority (Hon. Onyango): I want to tell the honorable Member that the only CEC Member that has the Executive authority in this County is the CEC Finance, and therefore we cannot equate him to any other CEC.

Hon. Ogutu: Mr. Speaker do you want to tell me that the CEC Finance is working alone or he is getting assistance from the Chief Officer?

The Speaker (Hon. Oraro): Hon. Members everyone will find time to speak therefore let's maintain order.

The Speaker (Hon. Oraro): Yes Hon. Owiti.

Hon. Owiti: Mr. Speaker, I believe that if we state nonfactual statements in the House, it cannot go unchallenged. The procedure of impeaching a CEC Member is clear irrespective of the Executive powers as in the County Government Act. So, we can't just say that the Assembly should impeach the CEC Member without following the due criteria. The Chairperson should have issued an impeachment motion...

Hon. Okumu: Point of Order Mr. Speaker

The Speaker (Hon. Oraro): Hon. Okumu you are the last one on this Point of Order then, I will give Hon. Beatrice Pamela to continue.

Hon. Okumu: Hon. Speaker, I just want to remind you that the House is out of Order and the Members are using uncouth means to contribute to the discussion. Kindly allow Hon. Beatrice to continue with her submission.

The Speaker (Hon. Oraro): Yes Hon. Beatrice kindly proceed with your submission.

Hon. Beatrice Pamela: Mr. Speaker, it seems like this matter is becoming emotive and people are showing certain interests. Before I was interrupted by Hon. Okumu who wanted to know where it is exactly in the Hansard that the CEC stated that the Estimated Amount was at Kshs. 1.4 billion. On page 2 of the Hansard report on question 1 and I quote the response of the CEC Mrs. Achie Alai;

“How much money was earmarked for the construction of the Moi Stadium?”

The CEC Member, Tourism, Culture, Arts and Sports (Hon. Alai): “The cost of this project was estimated at Kshs. 1.4 billion.”

Mr. Speaker, I have also heard Members refuting hearsay of this sort as nonfactual commitment. From our interrogation, the project was committed as an award had been given and a contract was signed, which to us is a commitment. However, where the money will come from is an issue on its own. As I was saying that going by the provisions of section 58 and 9 of the Public Procurement and Asset Disposal Act, 2015, it clearly shows that that there was an illegality perpetuated. A project was initiated yet there was no budget of it. Whoever is holding the contract has the legal basis to do that project and if the County dares to stop them, they will go to court which will prompt payment from the County for Breach of Contract.

Mr. Speaker, I want to associate myself with the findings of the Committee. However, there are issues such as that of the Renovation and Branding, which emerged and the Committee included them in their investigation even though they were not part of what they were expected to investigate. We had Kshs. 130 million in our budget for the Renovation of Moi Stadium. When I tried to consult whether that money that was earmarked could be used for the construction, I was advised that the Renovation and Construction are two different projects and you cannot take money allocated for one project and use it on another.

Issues were being raised on the contradictions of recommendations nos. 2 and 3;

2. That no money to be allocated to the construction project until such a time when the department is ready to furnish the Assembly with the required information regarding its feasibility and probity in the implementation framework
3. That the plan of the said stadium was unrealistic and therefore the Committee recommended that the Rehabilitation of the Stadium to be carried out instead.

I do not see the contradiction, as No. 2 is giving leeway that in case there is a possibility that the Assembly could be convinced that this project could be economically viable and good for the County therefore it could be considered in future. No. 3 is a suggestion that considering the information we have now and the circumstances we are better off rehabilitating Moi Stadium instead of constructing it.

Recommendations Nos. 4 and 5 are rather talking about the same thing as both call for a call for action on the CEC’s fitness to be in office.

Mr. Speaker, on the recommendation concerning the County Attorney, Mr. Victor Obondi, is a merger between Nos. 6 and 8. Our major issue is that we have clerks that were not properly inducted hence we end up with reports with issues that are not orderly. We know that the Chief Officers’ political responsibilities are taken up by the Head of Departments.

Mr. Speaker, I believe that if you tie recommendation number six which states that, he failed in his duty to number eight that he should be held responsible. It makes a lot of sense. I believe that our problem is that we have clerks who are not properly trained on how to write reports and we end up with issues that are jumbled up.

Mr. Speaker, we cannot claim that the Chief Officer are the Accounting Officers and we are all aware that the political responsibility is usually shouldered by the head of the institution, even that applies in Ministries. When funds are embezzled in ministries at the National Governments, who usually takes the responsibility, it is the Minister. The Minister does not sign a cheque, he or she does not pay anything, he does not procure, but they take the responsibility because they are leaders and the buck stops at the desk of the leader. So, they have to coordinate and ensure that their juniors do their work with diligence. Mr. Speaker, when the Senate is interrogating the Counties, why do they summon, the Governors? The Governors do not procure, the Governors do not even inspect projects, but the Governors have delegated their duties of implementation to the CECs. Yet the CECs do not appear before the Senate to respond to queries, it is the Governor, why? It is because he is the head of the County.

Mr. Speaker, if you want this House to oppose this report, it should be done on solid and concrete grounds, but, let us not use flimsy excuses to oppose a report and my worry is that we leave that County with a burden of Kshs 1.4 billion just because you want to appear good.

Mr. Speaker, from the submissions of the CEC herself, she stated that Kshs 1.4 billion is a huge amount that could not be allocated in the Budget at once and that is the reason as to why they decided to do a phase committal and that they will be undertaking this Projects in phases of Kshs 100 million per year. Simple arithmetic, Kshs 1.4 billion divide by Kshs 1.4 billion, how many years are those? 14 years and that is a fact that we cannot run away from. Mr. Speaker, with those few sentiments, I support this report. Thank you.

The Speaker (Hon. Oraro): Yes, the Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Foremost, without appearing to be petulant (grumpy), I want to say that this report is completely gibberish...

The Speaker (Hon. Oraro): Please put you microphone well because you need to be capture in the Hansard.

Leader of Majority (Hon. Onyango): Mr. Speaker, I was saying that, I don't intent to be petulant when I look at this report. Mr. Speaker, when I read it, I believe that it is so gibberish (rubbish). Mr. Speaker, let me take you step by step.

First, on page four of the report, we are being told that there were some external interference with the writing of this report or during the House Committee deliberations and the external interference emanated from the Hon. Members of this House that are allowed by law or the

provisions of our Standing Orders to attend any House Committee Meetings and contribute but do not have the voting rights. Mr. Speaker, the extent to that interference, is captured explicitly in the Hansard Verbatim Report. My good friend Hon. Okumu did capture it from page 14 where I entered the Committee Room. Mr. Speaker, if you look at it, then you will see that immediately I entered, the speaker did recognize that there are some non-members of the House Committee had arrived that is the Hon. Leader of Majority, Hon. Ojuok and Hon Abaja. Then a Member cheekily observed that he confirmed the presence of the Leader of Majority. He is not a Member of this Committee and I don't know whether he has communicated to you as to whether he is supposed to be there because he cannot just walk in and be an *amicus-curia* (*Friend of the Committee*) to this Committee he must have the expression permission from you.

Mr. Speaker, that means that, immediately we entered, we were met with hostility straight away. Mr. Speaker, I kept my cool until minutes later where my only sin was to say excuse me Chair and you can see how the conversation went on.

Mr. Speaker, unless we don't understand English or we did not attend linguistic classes, I don't know what that hostility was all about and the meaning of hostility has been reinvested so that if a Member of this House rightfully enters a House Committee, then that is hostility. Mr. Speaker that could have been occasioned because this House Committee, had a predetermined end in mind and that is the reason that they were so cautious in allowing any other Member to follow its proceedings. From my own interpretation, I want to trash this report straightaway because for one, it belittles that stature of Members of this Hon. House which is not supposed to happen.

Mr. Speaker, the next thing and if you look at the report right from page 4, the House Committee is telling us that, the Department did not furnish them with vital documents that would have enabled them to arrive at a conclusion that is premised in law or a conclusion that can stand the test of time. Again, if you go ahead, they are telling us that the former Chief Officer, Thomas Ouko refused absolutely to cooperate and give vital information that is on page 4. Mr. Speaker, it is a little disturbing that if you go to page 14 of the report, again the respondent (Mr. Ouko) was very generous with the information. So, I don't know where the contradiction is stemming from, because, you cannot be there and be there at the same time. It is either that the respondent was not there...

Hon. Beatrice Pamela: On a Point of Order. I would like to inform the Leader of Majority, that, on page four that he is making reference to concerning the respondent reads. One Mr. Thomas Ouko was responsible when these issues were unfolding, he was left out of the team accompanying Miss Achie Alai when appearing before the Committee. This led to the fears of the Committee in getting to the bottom of the matter in a firmly and satisfactorily manner.

Mr. Speaker, I don't see where Mr. Thomas Ouko refused to give information.

Leader of Majority (Hon. Onyango): Mr. Speaker, the gist of that statement is that Mr. Thomas Ouko did not appear before the Committee unless they want to amend. Those are some of the several amendments that they need to bring up...

Hon. Beatrice Pamela: No. Leader of Majority, if you read later on, the respondent voluntarily came before the House Committee...

Leader of Majority (Hon. Onyango): On which page?

Hon. Beatrice Pamela: Please give me time. I cannot talk and at the same time you are talking.

The Speaker (Hon. Oraro): Hon. Members, please address the Chair.

Hon. Beatrice Pamela: Mr. Speaker, I believe that the Leader of Majority want to read what he want to read because the statement clearly says that, when the CEC Member and her team appeared before the Committee, Mr. Ouko was not there. I believe that is very clear and I don't see where it is written that he refused.

Leader of Majority (Hon. Onyango): Mr. Speaker, I believe that this is a House that we must treat by tabling facts. Contradictions however little, cast a lot of doubt and the person who enjoys from that benefit is the accused. In this case the CEC to be impeached, or which this report intends to impeach. So, if there is any iota of doubt, from the benefit of that doubt must go to the person who is aggrieved the most in this report. Mr. Speaker, I am saying here that, on page four of this report, notably, one Mr. Thomas Ouko who was responsible when these issues were unfolding was left out of the team accompanying Miss Achie Alai and that is the fact.

Mr. Speaker, on the same breadth, on page 14 of the same report, the former Chief Officer of the Department Mr. Thomas Ouko, (respondent) in his submissions stated that can they give us the Hansard Report where the respondent gave his submissions. Then they will be home and dry. This is because fact are very open, they are either there or not.

Mr. Speaker, if you allow me to continue, we are all aware that this Assembly appropriated funds...

The Speaker (Hon. Oraro): What it is Hon. Samo? I believe that you are the mover of this motion. I believe that you should be taking notes.

Hon. Samo: On a Point of Order. Mr. Speaker, I just want the Leader of Majority to read page 14 of what he is stating. This page part 13 states that the Former Chief Officer in that Department Mr. Thomas Ouko in his submissions stated that the Procurement Process commenced by an Advertisement of the Construction of the Moi Stadium. Mr. Speaker, I just wanted to assist the Leader of Majority to note that page 4, should be read together with page 14. In other words, when the CEC appeared before the Committee, Mr. Thomas Ouko did not accompany the team, but during his invite, he did appear...

The Speaker (Hon. Oraro): Hon. Samo, what the Leader of Majority did say is the Hansard Report on his (respondent) submissions, but he read them together.

Hon. Samo: Mr. Speaker, in the Leader of Majority's submissions he states that the Chief Officer refused to accompany the CEC for Tourism. He did come yes and on page 14...

Leader of Majority (Hon. Onyango): Mr. Speaker, what I am saying to my good friend is that, we have page 4 and 14 of the report and then we have the Hansard Verbatim Report to back it up. Please can we get a convergence? A convergence in this report is that...

The Speaker (Hon. Oraro): Hon. Leader of Majority, I beseech you to address the Chair. Hon. Samo, please address the Chair.

Hon. Samo: Thank you Mr. Speaker, I was just assisting him because he is my good friend and I don't want him to interfere...

Hon. Okumu: On a Point of Order. Thank you Mr. Speaker. The House is out of order. I have witnessed two Member in this House both on their feet and both of them contributing at the same time which I believe is not procedural. Please guide us. Thank you.

The Speaker (Hon. Oraro): Hon. Members, I have already guided the House and said that, if you are contributing, please address the Chair. Hon. Samo, you should be taking notes because you will have adequate time to reply.

Leader of Majority (Hon. Onyango): Mr. Speaker, I was saying that, already there is an iota of doubt and doubt has already been cast about the authenticity of this report.

Mr. Speaker, another very important point that I want to put across is that, this House did indeed appropriate funds for the purposes of Construction of the Moi Stadium. If my memory serves me right, the total amount that was appropriated was Kshs 130 million. Mr. Speaker, our investigations ought to have been confined to the Kshs 130 million. Mr. Speaker, as far as we are concerned, that is what we gave authority to be expended on this project. Mr. Speaker, as I had initially stated, there are people who leave in Disney World who conjecture up their lives, you know those who have read about the Disney world, it is a place where children go for magical things, and there are people who think about life as composed of this conjecture.

Mr. Speaker, the other time the Hon. Member for Kajulu was saying that, some people are thinking of building of an Old Trafford in Kisumu and that is a perfect world of those who live in Disney world and if such a person goes to a House Committee, and conjures up imaginations, and you want to take that up as a basis of arguing in this House, then I am sympathizing with some of us. This is because, whatever is presented in this House must be supported by facts and does it have the Budgetary Allocation.

Hon. Beatrice Pamela: On a Point of Order. Thank you Mr. Speaker. I would like to inform the Leader of majority that, he is insinuating that the CEC Member appeared before a House Committee and conjured up information. If we cannot take what the CEC Member takes seriously, then I believe that we have a problem, then who are we supposed to be questioning?

Leader of Majority (Hon. Onyango): Mr. Speaker that is precisely what the House Committee was supposed to find out. This is because, if at all there was a Budgetary Allocation of Kshs 1.4 Billion, then, where is the evidence to support that? Or where is the documentary proof that there was a budget of Kshs 1.4 billion.

Mr. Speaker, if the House Committee scuttles this around and want to bring this House a report, that there was a Budgetary Allocation of Kshs 1.4 Billion, then the House Committee is not as good as the CEC Member who is being interrogated.

Mr. Speaker, please allow me to go ahead and say that, this Assembly ought to take its work seriously because we use tax payers money to do our work. We cannot be so casual and so lethargic in the process of conducting our duties, that is anabolism and we cannot just allow it. Mr. Speaker, the impeachment of the Member of the Cabinet is life threatening, it will completely destroy ones future, but, as a House, we will be more than glad if at all there is concrete and adducible evidence that somebody has committed an offence, then we shall clap all the way to compile an impeachment motion.

Mr. Speaker, as I conclude, if the House Committee still believes that, they have a case, then, let them bring on that Impeachment Motion on the CEC Member so that Members can debate. Thank you.

The Speaker (Hon. Oraro): Hon. Members, I have noticed the Leader of Minority and Hon. Ojuok. So, let me give Hon. Ojuok because the Leader of Minority has given you the chance to proceed. Procedurally, the Leader of Minority should have taken precedence.

Hon. Ojuok: Thank you Mr. Speaker. I beseech this House to get serious. In fact both sides of this House are messing up this issues because the House Committee did not assist us and actually the Committee messed the entire process. The issue we are interrogating here, I would like Members to recall that we are representatives of the people talking about potential loss of colossal amounts of money.

Mr. Speaker, I equally want you to take note that, this is an issue that has come up a number of times and we would like you at a certain point to actually get to know the roles of a County Executive Committee Member. This is because there is so much information that is in this particular issue that, Members of this House Committee from the start of this interrogation had at a point talking of hostility and completely flouting of House rules. Mr. Speaker, it is so unfortunate that, I was part of that and this is something that I cannot digest. In future, we would like to implore you to guide the House Committees on what a non-member is expected to do

when he attends a House Committee in which he is not a Member. Mr. Speaker that we are all allowed to attend these House Committees and we are not allowed to vote...

Hon. Okumu: On a Point of Order. Thank you Mr. Speaker, you can see that noise that we are witnessing.

The Speaker (Hon. Oraro): Hon. Members, I have already directed the Serjeant-at-Arms to address that. Please continue Hon. Ojuok.

Hon. Ojuok: Mr. Speaker, One, I just want to appeal to this House that, let us remind ourselves that we are the representatives of the people bestowed with the responsibilities to safeguard resources that have been allocated to this County. I want to go ahead and say that, this cannot see the light of day as a result of some of the contradictions and actions that were taken in its preparation that has cast a lot of doubt on so many issues. Mr. Speaker, in the same premise, I want to state that, so much information is emanating from this report that we cannot just shut it off. Let us use the information coming from this report. Mr. Speaker, I want to challenge the Leader of Majority.

Mr. Speaker, the Leader of Majority is talking of people living in the Disney World that conjectures certain demeanors and at certain time talks of a CEC with an impeachment motion hanging on her head which is life threatening. If a CEC can contemplate and appear before a Committee and actualize doing these things in front of a House Committee, and you talk of impeachment of such a CEC being life threatening...

Leader of Majority (Hon. Onyango): On a Point of Order.

The Speaker (Hon. Oraro): Leader of Majority, who do you want to inform?

Leader of Majority (Hon. Onyango): The Hon. Members.

(Laughter)

The Speaker (Hon. Oraro): Please proceed.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. I did not say that. You know sometimes the Hon. Member for Central Nyakach, there is what you call the figurative speech and you don't just say literally like that. Mr. Speaker, what I was saying entails what we call figure of speech. I hope you are in tandem with me.

(Laughter)

The Speaker (Hon. Oraro): Hon. Leader of Majority, you know that if you were a teacher, you ought to have used a simple language that is understandable to Hon. Members.

The Speaker (Hon. Oraro): Hon. Ojuok you are protected, please proceed.

Hon. Ojuok: Thank you Mr. Speaker. I do accept, and the way he is very eloquent in putting his words, but, I want to say that the Leader of Majority is speaking from both sides of his mouth. The way you portrayed the conduct of the Minister before this House Committee, the Committee was even wondering why it was taking such a person seriously. In fact, the CEC Member could not commit to anything and there I believe that you were being mean to the House Committee. Again, there is where the Leader of Majority talks about at a certain point they were praising that the respondent (Former Chief Officer) was very generous with information adduced to the House Committee. I believe that what you read there, that the House Committee is even insinuating that, the former Chief Officer during the interrogation was intentionally left out and questioning the intention of the Minister why this person was intentionally left out. Mr. Speaker, later on when he was invited to appear before the House Committee, he came, that is when he becomes generous with information.

Mr. Speaker, I also want to support the House Committee on one issue. In our interrogation of this report, we keep on questioning the hard facts. At one point we are saying that where is it mentioned in the Hansard Report. When it is mentioned in the Hansard Report and mentioning the CEC, it is not very relevant because we want the document. Mr. Speaker, in the same report the House Committee is indicating that, some people refused to bring a report to a House Committee of the Assembly.

Hon. Okumu: On a Point of Order. Thank you Mr. Speaker. I just want to let Hon. Ojuok know that it is not about this issue being mentioned in the Hansard, it is about the contradiction. If the CEC Member says that there was Kshs 1.4 billion allocated for this project in the Budget, then she is wrong. Mr. Speaker, when she says, then she is right, then that information is taken seriously because she has said that, the project is going to cost Kshs 1.4 billion. Mr. Speaker, when she says that the Kshs 1.4 billion was in the CIDP FY 2018-2022...

Hon. Beatrice Pamela: On a Point of Order!

The Speaker (Hon. Oraro): Hon. Beatrice Pamela, Hon. Okumu is on a Point of Order, please let him conclude I will give you chance.

Hon. Okumu: Mr. Speaker, when she says that the Kshs 1.4 billion was in the Budget, then now she is wrong. Mr. Speaker, at what point do we consider the statement made by the CEC as correct or wrong. Which section is right and which is wrong? Those are the contradiction that we are getting from the report.

The Speaker (Hon. Oraro): Hon. Ojuok. Please conclude.

Hon. Ojuok: Hon. Okumu, I believe that, I will be able to handle that when I reach there. I respect the Hon. Member because we are sons of teachers and we take our time to listen. If I can recall in this particular report, the CEC Member was questioned as to whether this projects was not in the Budget Estimate and she responded that it was in the Budget Estimates. Further she

stated that it was not there in the CIDP. The CEC responded by stated that, the CIDP that they have on the other side contains this Projects. The Committee went further and questioned, that they be shown where it is captured in the ADP. That it was not in the ADP. So, the Committee did not dispute, actually they developed the argument from the CIDP to the ADP. So, whatever you are stating is not the fact from this particular report. So, I see the Committee developing this issues articulately.

(Hon. Leader of Majority and Hon. Steve Owiti interject)

The Speaker (Hon. Oraro): Hon. Leader of Majority and Hon. Steve Owiti, why don't we give Hon. Ojuok. Hon. Leader of Majority, Hon. Ojuok is at liberty to make his submissions and if you are doing it citing the Standing Orders I will direct.

The Speaker (Hon. Oraro): Yes Hon. Steve Owiti.

Hon. Steve Owiti: Mr. Speaker, if there is misinformation adduced in the floor of this House it cannot go unchallenged.

The Speaker (Hon. Oraro): Okay, let me start with Hon. Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. First, I want to say that I am completely confused because from the onset, the Member is already opposing the report...

The Speaker (Hon. Oraro): Please can you speak using the microphone.

Leader of Majority (Hon. Onyango): Mr. Speaker, I am saying that I am confused because from the onset the Hon. Member said the he is opposing the report. But increasingly, he is aging supporting the report. Mr. Speaker, let me say this which I believe is very important.

Mr. Speaker, in the art of seduction, sometimes we promise things that we cannot deliver. At the end of the day, you will be accounted for what you have delivered. Otherwise, the lady will run away from you. So, if in a House Committee...

The Speaker (Hon. Oraro): Hon. Leader of Majority, you had a point of information...

Leader of Majority (Hon. Onyango): Mr. Speaker, I am informing him...

The Speaker (Hon. Oraro): Leader of Majority, I am ruling you out of order because you requested that you have information that you want to pass...

Leader of Majority (Hon. Onyango): Mr. Speaker, you must build you narrative...

The Speaker (Hon. Oraro): Information is straight forward.

The Speaker (Hon. Oraro): Please proceed.

Leader of Majority (Hon. Onyango): Mr. Speaker, where I want to persuade the Hon. Member, you know there is this nagging issue of Kshs 1.4 billion that the CEC Member committed to it and it is in the Hansard, but that was just an intent and it was never executed. Therefore, we cannot harp on it. Mr. Speaker, what is executed number one, something that is in the Budget Estimates. Two, something that has been procured and that is the execution. So, why don't we forget about this unnecessary hullah-balloohs...

The Speaker (Hon. Oraro): Hon. Members, I promised to give Hon. Steve Owiti. You stated information, let it be that.

Hon. Steve Owiti: Thank you Mr. Speaker. My information is with regards to the Budget Making Process. The House Committee had asked the CEC Member for Tourism about the inclusion of the figure of Kshs 1.4 billion in the CIDP. In her response, the CEC Member said that it was not there. The Committee by telling us that they referred to the ADP. The ADP figures is a figure relevant to the Annual Budget. So, when they say that they asked for it in the ADP, the figure is in the CIDP can be higher. If it is not there, they had to insist because they were doing their investigative role. The point I am trying to bring across because, this Committee resorted to investigate and when you investigate you must have facts. This is the reasons we are saying that, in the event that they failed to be furnished or provided with the relevant information or documents, then that shows that there was commitment

Mr. Speaker, when you are investigating, you must have facts; and that is why we are saying that in an event that they failed to be provided with the relevant document to show that there were some commitments, then they failed and so they cannot make recommendations based on hearsay.

(Loud consultations)

The Speaker (Hon. Oraro): Hon. Members Everybody will get time to contribute. Hon. Philemon, can you proceed.

Hon. Ojuok: Thank you Hon. Speaker. I also want to make a correction on one thing here. Hon. Beatrice Pamela clearly stated here that during their investigation, what was in the budget was the Renovation of Moi Stadium. There is no way Renovation and Construction can be done at a time. At one point there was some money committed for consultancy which is Kshs 1.4 billion. Now, what else is lacking in terms of commitment. It might not have been on the budget but the county is being committed on a contract.

In addition, I also want to correct the Leader of Majority that there was no contract for Construction of Moi Stadium but a renovation. At a certain point they moved from renovation and deviated some money for consultancy for the Kshs 1.4 billion project.

From the onset, I said that there are so many things that the committee had done. For instance; the chairperson and other key people's absence shows that they never had confidence. I want to applaud Hon. Beatrice Pamela for always standing for what you believe in and admitting that there are areas where we made a mistake. I am reminding the Hon. Members that we are people's representative to protect their resources.

The Minister might not have been as committed as the Chief Officer but this Assembly wrote to this minister concerning this issue. That means we unanimously agreed and even in our response, we allowed her to come and make clarification on the same. During that time, when she decided not to avail any information and now we are here demanding for those information. I think, we might be very mad to think like that.

Nevertheless, on the issue of County Attorney and the recommendation, it is his duty to go and give an appropriate advice. I am applauding the Director of Procurement for going ahead seeking for further direction from him. He failed in his duty and I also want to take the recommendations as good. Mr. Speaker as a county, we are well known for sports especially on football game. We are here to work and that is why the committee was recommending that; since we cannot achieve our Kshs 1.4 billion project, so, can we go ahead with renovation?

Hon. Speaker, I am relying on your guidance that this report be termed as a progress report. Even if you are recommending this report to the General Oversight Committee so long as it is done in a better way. Considering our budget estimate, this scandal is more than The Goldenberg Scandal. It is something that has occurred severally and the CEC in charge has also been warned during several consultative meetings.

I want to remind the hon. Members that however much we may have differences, remember that you were brought here to speak on behalf of the people who brought you in this House and protect their resources.

To the Leader of Majority, you cannot equate submissions of a minister on the issue of this magnitude to seduction. I believe that, one makes this House to resemble a very pedestrian house.

(Hon. Leader of Majority consulting loudly)

The Speaker (Hon. Oraro): Hon. Leader of Majority I am denying you the chance because I want Hon. Ojuok to conclude his speech.

(Loud consultations)

The Speaker (Hon. Oraro): The Leader of Majority, what is it?

The Leader of Majority (Hon. Onyango): Hon. Speaker, I did not say that there are somebody who wants to seduce another person. Mr. Speaker, you know the problem that we are having is

taking words in lethal context which is very unfortunate, but, anyway I understand where it is coming from.

Hon. Philemon: Mr. Speaker, I want to agree with the Leader of Majority. I may not be as fluent as you are, but I am son of a teacher.

(Laughter)

Hon. Ojuok: Most of the thing that were said regarding this issue I heard because the Leader of Majority just said that in the heart of seduction. You can say anything but what is the meaning of that Hon. Speaker?

(Laughter)

And who was he referring to? Is the CEC standing in front of PIC/PAC Committee over a potential loss of Kshs 1.4 billion, he is equating it to seduction. We need to take this matter seriously. Even though I do not support this report fully, but there is so much in it like some of the members of that Committee who bungled out the entire process by bringing up issues and later on absenting themselves so that they do not identify with the said report.

We rely on your wisdom to guide this House because there are so many useful things involved in to enable us get to the bottom of this. At long last, we will realize that even if it is renovating the Moi Stadium, this is a football County. Please Hon. Members, let us not be like chessboard whereby we are just being played on and then deserted, thank you.

The Speaker (Hon. Oraro): I am seeing the Leader of Minority and Hon. George Ogutu on their foot. To the Leader of Majority I am also looking at the time.

(Loud consultations)

The Speaker (Hon. Oraro): Just a minute, Hon. George Ogutu.

(Loud consultations)

The Speaker (Hon. Oraro): Hon. Ogutu, proceed while observing time.

Hon. Ogutu: Thank you Hon. Speaker for saving me. As a Hon. Members, we should be mindful of why we are in this House. For instance, we should protect the interest of Kisumu County people. First, is on the funds that we receive.

Mr. Speaker, I know that this particular project has attracted a lot of heat in the recent past. But, today, you can see how members are behaving and misbehaving at the same time. If you look at it deeply, there is something in this report. The statements which these people brought here should be presented for future use.

People have talked about Ethics and Anti-Corruption Commission (EACC). I do not believe that this House is being controlled by that body but it is our responsibility as Hon. Members. I believe that every debate in; National Assembly, County Assemblies and Commonwealth is being borrowed worldwide.

At least we can borrow an example from the National Assembly whereby investigations are done by this authority and it has never prevented them from debating on the same. Let us not belittle ourselves that when a matter is being investigated on, we do not debate on it also.

Mr. Speaker, if that is the case, then we should not be here in the first place. Let them do their work as we ours as well. Whenever something is amiss, I believe that it is the responsibility of this House to debate about it and come up with proper information to channel to our people.

We know that we had appropriated about Kshs 130 million for renovating the same project but not for construction. Unfortunately that money was diverted and drawing...

(Hon Leader of Majority consulting the Speaker)

Hon. Ogutu: Hon. Leader of Majority, during your speech, I did not consult the speaker but yes it is your right to consult.

(Laughter)

Hon. Ogutu: Mr. Speaker, funds were diverted which is illegal because the money meant for renovation has been taken somewhere else ...

Hon. Steve: Point of information Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Steve, I want Hon. Ogutu to finish his submission.

Hon. Steve: Communication is very important. There is information which has been severally peddled in the floor of this House. As the Chairperson of the Budget and Appropriations Committee, I want to remind this House that the Kshs 130 million that was approved in the budget was for the Construction of the Moi Stadium.

Mr. Speaker, I remember us as committee asking the Governor several questions regarding the same. There was Kshs 7 million for renovation put on in the city. Let us not confuse the House. And there were other development partners which were promised contribution on the same. The Hon. Members who were in that committee remember this debate very critically. It was Construction of an Ultra-modern Stadium.

The Speaker (Hon. Oraro): Hon. Ogutu I want you to make good use of the time.

Hon. Ogutu: Mr. Speaker, I want to convey my appreciation to Hon. Steve. When it comes to my turn during the debate, then, it becomes so easy for him to make correction yet people have continuously...

(Laughter)

Hon. Ogutu: People have continuously said that the narrative was construction and he has never objected. Mr. Speaker, let us guard what belongs to the County of Kisumu. There is a big problem. We know that this particular Executive Officer should not be protected but, as you can see how this debate is going. You can just start asking yourself this question; are we really doing our oversight role? Recently, when we were in Naivasha, you saw what happened in that floor. Today, we are here defending the same CEC whom we almost lynched there. It means that there is something that has gone down and I will not be part of it. Whether it is bread, we have to tell the Kisumu County people that whatever has been done is wrong. Mr. Speaker, in fact I am totally behind this report. Let the people of Kisumu get what they are supposed to get but I am seeing a lot of underground cuttings in this report, thank you Mr. Speaker.

The Speaker (Hon. Oraro): Now we have both Hon. Arao and the Leader of Minority on their feet, but, let me first give chance to Hon. Pete then Hon. Arao subsequently. But, I want you to be mindful of time as per the Standing Order.

Leader of Minority (Hon. Oiko): Mr. Speaker, a statement was issued on the floor of this House regarding Moi Stadium. It was then consequently committed to the PIC PAC Committee to do the diligence.

That committee tried to do its best and today the report is before this Assembly. When the statement was raised, there was no mentioning of figures. We as a Committee got the mentioning of figures when we got the report from the County Executive Committee Member for the Department of Tourism Culture Arts and Sports. In addition, I want to remind the House that some Hon. Members have failed to defend the House stating that she is not the Accounting Officer and that anything to do with this expenditure should not touch on her. Let this House remember all the communications made from this House to the department are done to the CEC through the County Secretary. It means that the executive power exercised by the Governor is exercised by the CEC Member at the department level. Let Hon. Members check their role in the County Government Act 2012.

Mr. Speaker, when we got the response, the House Committee felt like they could not only rely on that response but wanted to interrogate more when the CEC and the team would present themselves. Finally they came and gave us these facts; Kshs 130 million which was appropriated in the budget was used for consultancy work. They paid Kshs 89 million for that work and some hundreds of shillings remained. That was their response which is captured in this report. They went further in telling us that they had tendered for Construction of Moi Stadium at a cost of

Kshs 1.4 billion. That one raised questions but, we were not forging up issues and figures because there is evidence to that response and as per the verbatim response of the minister and her team. When the committee captured that, what is the mistake? As a Committee, our role is political and the Moi Stadium is a thorn in the flesh in the county of Kisumu.

We are going down in the annuals of history according to our today's contributions. Just contribute by either opposing or supporting but it is in the Hansard Report and as we talk, let us remember that walls also have ears and the people of Kisumu County will make their judgments accordingly. Despite the Committee didn't forge figures and issues, they did not also invite the Executive for seduction but rather the facts and that is what they gave.

(The Leader of Majority rises on his feet)

The Speaker (Hon. Oraro): Hon. Leader of Majority, can you give the Leader of Minority time to contribute?

The Leader of Majority (Hon. Onyango): The Leader of Minority cannot mislead this House. First of all, he cannot say that the function of PIC PAC Committee is political.

Leader of Minority (Hon. Oiko): No, I said that the work of this House is political. I said that when we are investigating a matter of this magnitude...

The Speaker (Hon. Oraro): Hon. Leader of Majority

(Loud consultations)

The Speaker (Hon. Oraro): Hon. Members! There is no way we can go on with the debate when there are two Hon. Members are on their feet and addressing themselves. Let us respect the rules of the debate whereby when you have a point of order, you stand up, then given a chance to execute your case. That is the rule of the debate. So, Hon. Leader of Majority, when I give you time, you go straight to the point then allow the Leader of Minority to conclude.

The Leader of Majority (Hon. Onyango): Sorry about that Mr. Speaker. But at least my seniority does not allow me to do that. The Hon. Member on the floor is saying that history will judge these members harshly and that the Committee on a seduction stage with the executive. Can he conform that it did not happen?

Leader of Minority (Hon. Oiko): I was responding to the previous contribution made by Hon. Members. I am not the first person to quote that Mr. Speaker.

The Speaker (Hon. Oraro): What is it Hon. Seth?

Hon. Okumu: On a Pint of Order. I am requesting the Leader of Minority to confirm for us whether it is true that as the Committee was doing this, they were playing politics because he say that our role in all these is politics.

Leader of Minority (Hon. Oiko): Hon. Speaker, I am saying that we shall make our decision based on what we are doing which is a political decision because we are not legal officers.

The Speaker (Hon. Oraro): Leader of Minority, I want to rule you out of order on that. The roles of the Committee are very clear. The Assembly has three clear roles. Even though the process of getting here is political, but the work that you are supposed to do is well articulated in the Constitution of Kenyan constitution 2010, the County Government Act 2012 and the Standing Orders.

Leader of Minority (Hon. Oiko): Point taken sir. We were told that the consultancy work was advertised for the Kshs 130 million which was budgeted for. They also told us that they advertised for the Construction of a Ultra- Modern Stadium at a cost of Kshs 1.4 billion which had never been appropriated in the budget. When we demanded the reason, there was no clear answer for that.

Mr. Speaker Sir, when you refer to annex fourteen, this was a letter written by the former Supply Chain Management Director questioning the logic behind this project if truly budgeted for. The clear verbatim report we got indicated that it was not there.

If the Director, Supply Chain Management could question that within the department, what is the implication? What was being done was illegal. By then the advertisement had been done, the tender had been awarded to Shajanand Holdings Limited. These made some other two companies to protest.

The Speaker (Hon. Oraro): What is it Hon. Seth?

Hon. Okumu: On a Point of order. Mr. Speaker the Leader of Minority is again saying that tender had been awarded plus the advertisement yet we do not have those in our annexures. So, should we be convinced by the word of mouth? Those are the reasons why we are rejecting the report

Leader of Minority (Hon. Oiko): This is information was tendered by former Chief Officer who could then not get access to the documents within the department. And he was very categorical that; it was advertised and awarded to Shajanand Holdings Limited and that there were two companies which protested.

The Speaker (Hon. Oraro): Hon. Steve, what is it? I want Hon. Pete to finish his submission.

Hon. Steve: On a Point of Order. Mr. Speaker Sir, it is very absurd that we can come to the floor of this Honourable House to bring issues which cannot be substantiated. This is even against the

Standing Orders. It is even known that this matter is with the EACC which is not even appearing in the report. At what point was the flag raised that the matter was taken to the EACC? They are not even telling us at what the EACC has been doing. That is something I am very sure of.

The other point is that when the Committee has failed to give us a report that we can deliberately on substantively, they are now coming here to threaten us that we will go down in history. That Committee has failed by giving us a report which I even fail to understand. And that is our point of departure.

The Speaker (Hon. Oraro): Yes, Hon. Philemon?

Hon. Ojuok: On a Point of Order. Hon. Speaker, I believe that, I was reading another report because in this one I am referring to, and being told that this issue is with the EACC. It is mentioned in this report. I am one person that I would not want this report to be taken to the annals of history in a very bad way, a person who is under brilliant carrier is one Hon. Steve Owiti.

The Speaker (Hon. Oraro): Hon. Ojuok, your point is noted. I want to guide the House. Hon. Members whenever we are doing some work, let us follow the rules and regulations. The issue at hand is very clear from the person who raised the statement on what he wanted to be investigated.

However, during the process of investigation, some matters may arise which are of topical concern and interest of the County and the recommendation can be provided. The question is; if someone was to say that you know I constructed my house somewhere at a cost of Kshs 10 million. Yes it is me who told you so you should believe it. But, what could be the problem with the recommendation that you need to dig deep into it so that you get the facts as per the Standing Order No. 89?

Nevertheless, the matter here is already with us, that is why I expect us to debate soberly without being emotional. We will find a way out if it because the county is ours plus its successes and failures.

The Speaker (Hon. Oraro): Hon. Leader of Minority, I am worried about the time.

Leader of Minority (Hon. Oiko): Just give me two more minutes so that I conclude. Two key issues raised in this report;

1. The expenditure of Kshs 130 million on Consultancy Services. Kshs 89 million plus was paid and the outstanding balance. This was being paid against the backdrop of Kshs 1.4 billion for the project. It means that Edon Consultancy is still being owed by the County Government for the consultancy work.

2. The Kshs 1.4 billion that was advertised and the tender won by Shajanand Holdings Limited. It was never budgeted for. The picture we are getting is that the contract was signed. So, the County of Kisumu has been committed to a debt of Kshs 1.4 billion. Us we did not cook this but, got the information from the Executive in their submissions before the House Committee.

Thank you Mr. Speaker.

The Speaker (Hon. Oraro): Yes Hon. Seth Okumu.

Hon. Okumu: On a Point of order. Mr. Speaker, the Leader of Minority is saying that a contract of 1.4 billion is owed to Edon Consultancy and at the same time he is saying that a contract of 1.4 billion is with Shajanand. That is the Vice Chairperson of the Committee that is giving us information; I don't know what he means when he is giving us such information that is contradicting.

The Leader of Minority (Hon. Oiko): What I have said is that Kshs 130 million was for Consultancy Services.

The Speaker (Hon. Oraro): Hon. Pete, do we have anything to support this matter that you are saying.

Leader of Minority (Hon. Oiko): Hon. Speaker we were unable to be furnished with these records.

The Speaker (Hon. Oraro): So how do we prove that there is a contract of Kshs 1.4 billion?

The Leader of Minority (Hon. Oiko): For Construction of Moi stadium and Kshs 140 million... Hon. Speaker when you read this report then you will get it.

The Speaker (Hon. Oraro): Hon. Leader of Minority, I have gone through the report as Hon. Samo was presenting. My. Question is; how do we prove as an Assembly that there is a contract of 1.4 billion?

The Speaker (Hon. Oraro): Yes Hon. Ojuok.

Hon. Ojuok: Hon. Speaker, I want you to give direction to this House because I know that this is something that will happen so many times where a House Committee persistently asks for a documents and a department is refusing.

The Speaker (Hon. Oraro): Hon. Ojuok, you just understood me very well. The Committee is asking very well that there are not getting. What is supposed to be their recommendation?

Hon. Ojuok: That is one of the reasons why I said that I cannot fully support the report because one of the recommendations was for action to be taken for that particular department for not availing those particular things.

The Speaker (Hon. Oraro): What is it Hon. Okumu?

Hon. Okumu: Mr. Speaker, if a department is not giving you conclusive documents it is just fair to come to this House and tell us that we requested for these documents and we were not given; and make recommendations on the person who was supposed to furnish this Committee with those documents and did not. But coming here and making conclusion with documents that you did not receive is quite misleading.

The Speaker (Hon. Oraro): Order Hon. Members.

Hon. Ojuok: I just wanted to know that, next time when we invite somebody like a CEC or any other person, they don't avail documents but they are making statements before that committee or the House without the documents. What are we supposed to...

The Speaker (Hon. Oraro): The question I am asking is that, we are a House guided by rules and procedures. Standing Orders No. 89 provides for Substantiation of Facts. So I am asking that if somebody said that there is a contract of Kshs 1.4 billion and fails to give you evidence. This is to Hon. Pete, how do we prove that there is a contract of Kshs 1.4 billion?

(Loud consultation)

The Speaker (Hon. Oraro): Yes Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Mr. Speaker, I believe that, when doing an investigation on an entity who is culpable of a crime, there is no way you can expect them to give you evidence that is going to incriminate them. Mr. Speaker, if I steal your coat today and you have a strong information to show that I stole your clothe then, you call me to ask me to bring the coat as evidence. Will I bring it?

(Loud consultation)

The Speaker (Hon. Oraro): Hon. Beatrice Pamela just take your seat. I believe that Members are not getting my question. I am just trying to find a way of guiding the House that we have Standing Orders which provides for facts to be substantiated. A case where a CEC Member or a witness has failed to give evidence just like Hon. Beatrice Pamela is saying; are there other ways of getting that evidence?

The Speaker (Hon. Oraro): Yes Hon. Steve Owiti.

Hon. Steve Owiti: Mr. Speaker I want us to understand that, the Committees of this House operate on behalf of the Whole House and when a committee fails to get the required information, they are supposed to report back to the House that the House finds the means and ways to ensure that the information is acquired; which did not appear in their recommendation.

Mr. Speaker, this House has got the same powers like that of the High Court and the High Court just like the Assembly cannot make a ruling without getting the substantiated facts which I think we have the means and ways of getting. There are summons which can be released by this House and other tools that can be used to get the information that we want. So when a House Committee fails, the matter is to report back to the House and the House will decide on the best way forward. That was the most important thing that ought to have appeared in this report.

The Speaker (Hon. Oraro): It looks like I am opening this matter for debate again.

The Speaker (Hon. Oraro): Yes Hon. Leader of Minority.

Leader of Minority (Hon. Pete): Mr. Speaker, with due respect, we are talking of means to be used, ways to be used and they are not mentioning them that means that they are giving credit to the report of the committee.

The Speaker (Hon. Oraro): Yes Hon. Arao.

Hon. Pst. Arao: Mr. Speaker, allow me to call the mover to reply.

The Speaker (Hon. Oraro): Yes Hon. Samo.

Hon. Samo: Mr. Speaker, I would have wished to speak a little bit further on this report but judging with the mood of Members of this House it seems that the Members are in favor of having an Ad Hoc Committee constituted to delve more in this report. I will not refuse to agree with that. It is important that some key Members in this House that is Hon. Beatrice Pamela and Hon. Philemon have talked of very important matters here.

The Speaker (Hon. Oraro): Yes Leader of Majority.

Leader of Majority (Hon. Kenneth Onyango): Mr. Speaker it is time and I would wish that we invoke the provisions of our Standing Orders so that the House be extended by 20 minutes.

Hon. Steve Owiti: Mr. Speaker I oppose the extension because the matter at hand is not coming to an end very soon. So let us do the procedural thing that is to adjourn and proceed tomorrow.

Hon. Okumu: Mr. Speaker, under motions that can be raised without a notice given; the Leader of Majority has raised a Motion of Extension of Time and I believe that motion needs to be seconded and then we agree as a House.

Hon. Pst. Arao: I second the motion.

The Speaker (Hon. Oraro): Hon. Members, you saw me looking at the time and I believe that the Leader of Majority is in order in executing his role and it is as per Standing Orders No. 28 on hours of meeting and he was referring to 28 (3) and (4). He has moved a motion of extension which has been seconded by Hon. Arao. I therefore propose a question for debate.

Hon. Okumu: Thank you Mr. Speaker, going by the mode of the House I want to ask the mover to reply.

The Speaker (Hon. Oraro): The motion has been moved by the Leader of Majority, seconded by Hon. Arao. I therefore want to put a question on the extension of time for the House for further 20 minutes.

(Question put and agreed to)

The Speaker (Hon. Oraro): Yes Hon. Samo.

Hon. Samo: Mr. Speaker, just like I said that I will not be able to speak much on that and I agree just like I have said that if the House intends to constitute an Ad Hoc Committee then, I would also support that. We have to agree that we are here to debate on matters which are of topical concern. Some of them are very serious and very weighty.

Mr. Speaker, if you look at the annexure number 6, we have been informed that when we asked these questions we didn't have the figures attached to it the way Leader of Minority said but we realized that it is the department that gave us this information. They told us that yes, we have allocated or intending to allocate Kshs 1.4 billion towards the estimated cost of this project then they continue telling us in number 2 that in FY 2018/2019, Kshs 130 million was appropriated and Kshs 89 million expended which was part of 10% of contracted sum signed by the County Attorney for the Consultancy Services undertaken by Edon Consultancy Services.

Mr. Speaker, this County Government has already paid Kshs 89 million which is just part of what is to be paid to Edon Consultancy and I believe that it is about 10% of the total sum which is Kshs 140 million. Already, we cannot just say that there is no project which is taking place. In Fact the Leader of Minority said it very well that there is a balance that we still owe them. In other words, these guys will come and take their Kshs 140 million. Where are they taking this Kshs 140 million and what have they done.

Mr. Speaker, if the President the other day commissioned a Stadium in my ward at a cost of Kshs 350 million, we would have then thought as an Assembly to ask the Executive that can we be able to sit down and ask ourselves if we are talking about this Kshs 1.4 billion and is the County Government or the Assembly able to pay this. If we are going to pay going by what is here, that is Kshs 100 million per year because you can see that FY 2019/2020 Kshs 100 million was appropriated though it was stopped by the EACC.

If you look at the next bullet, in FY 2020/2021 another was appropriated though it is unspent waiting the clearance from the EACC. This means that, every FY we are going to appropriate Kshs 100 million for the next 14 years. The Assembly wants to close its eyes to this kind of situation that is not normal which is very key because it is a matter of public interest.

Mr. Speaker, what can Kshs 100 million do if you keenly look at it? In my ward, there is a theatre that is coming up at Kshs 10 million. This means that, in each and every FY we could be building 10 theatres in all these wards. If we are going to put that money together for 14 years then we are going to run in a loss and that is why I agree with the Members if they agree we go the Ad Hoc way so that we can look into this matter exhaustively then, I would agree with them. But we cannot close our eyes to the fact that Kshs 89 million has already been spent and some people are eating it without doing anything. No we do owe them another Kshs 41 million that they want from us.

Mr. Speaker, I tend to believe that something is completely wrong and it has been clearly demonstrated by the robust debate by these Members. I agree as I conclude that, we as an Assembly are charged with a serious role in oversight, representation and legislation. I represent the people of Kajulu in this Assembly and the roads are very bad. Can we take this Kshs 1.4 billion and do something substantial? In this matter I am not saying that the Governor or the CEC is wrong. If a person is wrong then, we can be able to sit as a County Government to be able to think about this. Are we going to again waste Kshs 1.4 billion on something that is nonexistence and I want to tell you as I finish; who tells you that in the next years we will still be here or the Governor and the CEC? Then this is a project that will not come to conclusion.

So, Mr. Speaker I would be able to urge the Hon. members that let us go back to ourselves and see that Kshs 1.4 billion is substantial money that we cannot allow to let go just like that. Let us consider constitution an Ad Hoc Committee to further investigate this matter conclusively and tell the people who we represent that Kshs 1.4 billion cannot just be a pocket change. I beg to reply.

The Speaker (Hon. Oraro): Thank you Hon. Samo. That was so good. Hon. Members we have come to the conclusion of the debate of this report and several matter have been raised. There are Members who have opposed it, there are Members who have supported it but there are fundamental questions that are in it beginning from the statement itself.

Hon. Members, what was supposed to be delivered, the emerging issues and the possible recommendations? Remember that Article 195 of the Constitution equates us to the High Court. We have Quasi-Judicial functions and the manner in which the Court works is that there must be evidence. You have noticed that there are cases where you know that so and so did this and you don't have the evidence.

So, as we execute and not this one alone but this is my recommendation to any statement that might be raised. Let us do thorough work, let us take our time and get facts with something that is so tight that cannot be questioned. The mix up of statements have come out; several recommendations have come out but, as per our Standing Orders, once a report has been presented and debated, there is the procedure that has to be undertaken. I therefore want to put a question on the Report of the Construction of Moi Stadium as presented by the Committee of PIC/PAC.

(Question put and negatived)

The Speaker (Hon. Oraro): The report of the Status of the Construction of Moi Stadium by the Select Committee of PIC/PAC is hereby rejected today 18th November 2020 at 1810 hours.

Where a report is rejected, our Standing Orders provides very well that this report can find its way back to the House and if it is coming back to the House I would like to advise that let us take Hansard on the comments by Hon. Philemon Ojuok and the rest seriously.

The Speaker (Hon. Oraro): Next Order!

MOTION

ECD, ADULT EDUCATION AND VOCATIONAL TRAINING COMMITTEE REPORT ON
THE DISBURSEMENT OF SCHOLARSHIP AND BURSARY FUNDS FOR FY 2018/2019
AND FY 2019/2020

BY HON. DAVID ARAO

The Speaker (Hon. Oraro): What is it Leader of Majority?

The Leader of Majority (Hon. Onyango): Mr. Speaker, we are in agreement that he can communicate what I wanted to say.

The Speaker (Hon. Oraro): Hon. Arao.

Hon. Pst. Arao: Mr. Speaker, following the resolution made by the House that we were to extend by 20 minutes and it is already exhausted, I would like to withdraw the report from Education Committee so that we can bring it on a day of your convenience.

The Speaker (Hon. Oraro): Hon. Leader of Majority, is that what you agreed. Is he withdrawing the report or are we adjourning?

The Leader of Majority (Hon. Kenneth Onyango): Mr. Speaker, I believe that, we are adjourning and once we adjourn then that report takes precedence in the next business of the House.

The Speaker (Hon. Oraro): Hon. Members, I believe that is what is supposed to be done that when we adjourn then, it becomes the first business of the House. Hon. Arao has requested to withdraw the motion. If you withdraw it then it will be the responsibility of the House Business Committee to consider it for discussion or not. In that case you need a seconder.

Hon. Pst. Arao: Mr. Speaker I wish to call upon to Majority Leader to second?

The Leader of Majority (Hon. Kenneth Onyango): Mr. Speaker I believe that Hon. Arao has the report and he is ready to move it. Let us just adjourn.

(Loud consultation)

The Speaker (Hon. Oraro): Hon. Arao you are out of order.

Leader of Majority (Hon. Onyango): Mr. Speaker I was saying that report was listed for business.

(Loud consultations)

Leader of Majority (Hon. Onyango): Mr. Speaker, the Hon. Member is trying to compromise my principles. Anyway let me say that we can reprogram it in the next House Business Committee meeting because he has said that he will not be around tomorrow and I would wish that he tables the report himself. If that is the case, and given that there is a lot of interest in the report then, we can give him the benefit of doubt. Thank you.

The Speaker (Hon. Oraro): Is there anybody who wants to take about that?

The Speaker (Hon. Oraro): Yes Hon. Philemon Ojuok.

Hon. Ojuok: Hon. Speaker, we cannot subject the activities of this House to an individual Member. This report is a very serious report and it is already there. I believe that I will go with the original direction that the Leader of Majority was saying and I was wondering that the Leader of Majority was convinced.

The Speaker (Hon. Oraro): Hon. Steve Owiti.

Hon. Steve Owiti: Mr. Speaker, I also want to oppose the Withdrawal of that Motion. If the Chairperson is not there; if the Deputy Chairperson decides to run away then any Member will table that report.

The Speaker (Hon. Oraro): Yes Hon. Jagongo.

Hon. Jagongo: Thank you Mr. Speaker. I am sensing something and I believe that there are no cheques and that is why the Chairperson would want to withdraw it in order to get more time. What we need as an Assembly are the cheques because that is the main thing. We are getting a

lot of phone calls from our people and they need cheques to take to school. Some of the students have been chased from the school because of the school fees. So, what is important is the day we are to get these cheques from the Department of Education and not postponing the report day in day out. Thank you.

The Speaker (Hon. Oraro): Yes Hon. Beatrice Odongo.

Hon. Beatrice Odongo: Mr. Speaker, I wanted to say that I don't see the reason for us to adjourn and I believe that we should just suspend the sitting so that tomorrow we are able to discuss it. This is the fourth time that this report is being withdrawn. So, what is the need for us having a report to be tabled in this House again? I want to support that the Chairperson brings the report tomorrow; he is being paid as a Member of the County Assembly and tomorrow is a gazetted day that he should be in this Assembly.

The Speaker (Hon. Oraro): What is it Hon. Seth Okumu.

Hon. Okumu: Thank you Mr. Speaker. I also want to join my colleagues in demanding that we only adjourn and continue with the business of that report tomorrow. I believe that, the reason given by the Chairperson of him being absent is not convincing enough and there are very many able Members in that Committee who can present that report. If he can confirm to us that there are no able Members then, I believe that, as we discuss tomorrow we can discuss to disband the Standing Committee and ask Selection Committee to reconstitute that House Committee.

The Speaker (Hon. Oraro): Hon. Members, the matter at hand has been raised by Hon. Arao and I want to agree with the Members that it is not a must that the Chairperson must present the report. We have today discussed a report from PIC/PAC Committee that has been presented by a Member of that Committee who is not the Chairperson nor the Vice Chairperson and has been executed.

So, I have been informed that was the last matter in the Order Paper for today. In that regard I want to say that if we adjourn without discussing it we will refer to Standing Orders No. 30; resumption of interrupted business.

The Speaker (Hon. Oraro): Next order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business to transact, the House stands adjourned to tomorrow Thursday 9th November 2020 at 2.30 p.m.

(House rose at 6.28 p.m.)

Addendum

Hansard Reporters

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