

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FOURTH SESSION

Wednesday, 22nd April, 2020

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

(The Temporary Speaker (Hon. Carren Muga) in the Chair)

PRAYERS

The Temporary Speaker (Hon. Muga): Hon. Members, good afternoon and welcome to this session. Mr. Clerk, kindly take us through the business of the day?

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

STATEMENTS

The Temporary Speaker (Hon. Muga): Hon. Miruka.

Hon. Miruka: Thank you Madam Speaker. I have two Statements to seek. Madam Speaker, first, about a month ago I had sought for a Statement regarding Pending Bills. Madam Speaker, the instruction from the Chair was that the Chair of Budget and Appropriations was to report back to this House. Madam Speaker, time has elapsed since that ruling was made and I have not received the response.

Secondly, Pursuant to the provisions of County Assembly Standing Orders No. 189 read together with Orders No. 41 (2) (b). I wish to request for a Statement from the Chairperson of Committee on Budget and Appropriations regarding the Implementation of Projects in the Department of Tourism, Wildlife, Arts and Sports.

Madam Speaker, in the Statement, the Chairperson should inquire and investigate and report back on the following;

1. When Contractors handling Projects from the said Department would be rolled down in the Wards now that the Financial Year is coming to an end and none at all has reported.
2. Mitigating Measures that the County has put in place to remedy the situation?

Thank you.

The Temporary Speaker (Hon. Muga): Hon. Miruka, I get it that you want responses on matters the Statement that you had sought for initially on the Pending Bills. I want to request the Chair of Budget and Appropriations Committee to bring this report before the House in a weeks' time.

Hon. Agolla: On a Point of Order. Thank you Madam Speaker. With due respect to the Hon. Miruka, I would like your chair to direct that, the matter that has been sought by Hon. Miruka be committee to the right Committee.

Madam Speaker, there is a Committee known as the Committee on Implementations this is because the Estimates has been passed and funds appropriated to respective departments and it is the role of the Executive to implement the resolutions of this House. It is the prerogative of the Committee on Implementations to follow-up on the implementation of these projects. Madam Speaker, even though the Member did not seek for the indulgence for Members to contribute on this matter, the issues of Pending Bills is affecting this County. Madam Speaker, even the Implementation Committee has encountered challenges, because Contractors that are expected to implement these projects are the same contractors that are not being paid. Madam Speaker, you will find that we pass a resolution in this House that no Development Projects with Pending Bills so that in future we have contractors with the ability and able to implement development projects.

Madam Speaker, I am in concurrence with the Statement that was sought by Hon. Miruka, that the Committee with the prerogative to bring up the Report have a question through the chair please give directions.

The Temporary Speaker (Hon. Muga): Thank you Hon. Agolla for your insight on the issue sought by Hon. Miruka. I don't know if you are trying to give him directions. Hon. Miruka, can you comment on what Hon. Agolla has just raised?

Hon. Miruka: Thank you Madam Speaker. I have no objection on what he has raised because as the Chair of Implementation he feels that the issue rightfully belongs to his docket. Thank you.

The Temporary Speaker (Hon. Muga): Thank you Hon. Miruka for adhering to Hon. Agolla's sentiments. Therefore, I want to request the Committee on Implementation to take up the issue and report back to the House in a fortnight. Thank you Hon. Agolla.

The Temporary Speaker (Hon. Muga): Hon. Miruka, what is it again?

Hon. Miruka: Thank you Madam Speaker. I am getting confused and I stand to be guided. I believe that the matter that I raised touched on the Budget and Appropriations Committee. The House had appropriated funds for Projects within the same Department and this funds are yet to be spent for reasons that I may share with this House but I may not wish to, is that the Accounting Officer for the Department of Tourism...

The Temporary Speaker (Hon. Muga): Order!! Hon. Miruka.

The Temporary Speaker (Hon. Muga): Excuse Me Hon. Miruka, you seem to be Out of Order because that is a statement that you are bring before that House.

The Temporary Speaker (Hon. Muga): Yes Hon. Jagongo.

Hon. Jagongo: Madam Speaker just a point of information. I can remember very well that we had directed the same question to the Chairperson of Budget and Appropriations Committee that was before the issue of Pending Bills but the other issue can be directed to the Chairperson of Implementation Committee.

The Temporary Speaker (Hon. Muga): Thank you. Yes Hon. Agolla.

Hon. Agolla: Madam Speaker, just on a Point of Information to concur on what Hon. Jagongo is saying; I did propose that the issue of Implementation of Tourism Projects and other departments should be channeled to the Committee on Implementation but, the issue of Pending Bills is directly under the Committee on Budget and Appropriations. The delay on the payment of the Pending Bills that is also affecting implementation of project development in the County. That is what I was trying to reiterate and strengthen.

The Temporary Speaker (Hon. Muga): Thank you Hon. Agolla. Seemingly, the first order that we gave that Pending Bills be brought before the House by the Budget and Appropriations Committee was the right one. I therefore direct that the Hansard indicating that the Pending Bills that was directed to the Implementation Committee be expunged from the record of the County Assembly. Hon. Miruka, the statement that you sought before the House on the issue of Department of Tourism that is forwarded to the Committee on Implementation should be responded to and brought back before the House in one week.

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

MOTION

JOINT COMMITTEE OF CHILDREN, CULTURE AND COMMUNITY SERVICES AND COUNTY DELEGATED LEGISLATION REPORT ON THE KISUMU COUNTY WOMEN, YOUTH AND PEOPLE LIVING WITH DISABILITIES FUND REGULATIONS 2019

BY HON. INVIOLATE ADHIAMBO

CHAIRPERSON, COUNTY DELEGATED LEGISLATION COMMITTEE

The Temporary Speaker (Hon. Muga): Yes Hon. Miruka.

Hon. Miruka: Thank you Madam Speaker if you allow me I would read the document on behalf of Hon. Inviolata which was a joint committee.

PREFACE.

Pursuant to the Kisumu County Assembly Standing Orders No. 185(1) Two or More Committees of the County Assembly Considering similar matters may, with the approval by Speaker hold joint sittings.

JOINT COMMITTEE MEMBERS PRESENT.

1. Hon. Inviolata Adhiambo	-	Chairperson
2. Hon. Rashid Miruka	-	Co- Chairperson
3. Hon. Gard Olima	-	Member
4. Hon. Aslam Khan	-	Member
5. Hon. Augustine V. Otura	-	Member
6. Hon. Joseph Olale	-	Member
7. Hon. Caren J. Oguok	-	Member
8. Hon. George Olwal	-	Member
9. Hon. Vincent Jagongo	-	Member
10. Hon. Seth Kanga	-	Member
11. Hon. Olga A. Otieno	-	Member
12. Hon. Consolata Ollows	-	Member
13. Hon. Jennipher Obonyo	-	Member
14. Hon. Florence Olang'o	-	Member
15. Hon. Beatrice Pamela	-	Member
16. Hon. Jacktone Ogendero	-	Member
17. Hon. Pamela Odhiambo	-	Member
18. Hon. Jane Manuche	-	Member
19. Hon. Julius Genga	-	Member
20. Hon. Caren Muga	-	Member
21. Hon. Maurice Ngeta	-	Member
22. Mr. David Ochieng	-	Clerk to Committee.

SECRETARIAT

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| 1. Mr. Dominic Muinde | - | Assembly Legal Clerk |
| 2. Silas Kapesa | - | Sergeant at Arms. |

IN ATTENDANCE.

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| 1. Mr. Haggai Khadiri | - | Chief Officer Department of Women, Youth,
PWDS and Social Services |
| 2. Mr. Fredrick Musumba | - | Gender Officer. |

THE JOINT COMMITTEE MANDATE

Mr. Speaker,

The Kisumu County Women, Youth and People Living with Disabilities Fund Regulations was laid under Papers on Wednesday 26th February, 2020 at 1430hrs and tabled for discussion on Wednesday 8th April, 2020 at 1430hrs by Hon. Inviolata Adhiambo-Chairperson County Delegated Legislation Committee as per the Provisions of the County Assembly Standing Orders No. 192 and it was referred to the Joint Committee pursuant to the Provisions of the County Assembly Standing Orders No. 185(1)(2) to Consider the findings and the recommendations of the County Delegated Legislation Committee and the Chairperson of County Delegated was to report back to the Assembly on Wednesday 22nd April, 2020 at 1430hrs.

The Joint Committee on County Delegated Legislation and Culture, Children, Youth and Community Services sat on Tuesday 21st April, 2020 after inviting the Chief Officer of Women, Youth, PWDs and Social Services Mr. Haggai Khadiri with Gender Officer Mr. Fredrick Musumba to appear and clear the air.

The committee derive its mandate from

- a) The Constitution of Kenya 2010 section 10, 118 and schedule four (4)
- b) Statutory Instrument Act, 2013 section 13
- c) Public Participation Bill, 2018.
- d) Case law – Robert Gakuru vs the Governor of Kiambu County 2014.
- e) The SOCATT issue 2 of 2018.
- f) Assembly Standing orders number 192 which outlines its functions to be as follows;

Sub Order (2) Whenever a statutory instrument is submitted to the County Assembly pursuant to the Constitution, any law or these standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of relevant Sectoral Committee, or any other member and shall thereafter stand referred to the Committee on Delegated County Legislation.

COMMITTEE FINDINGS

The Committee after inviting the Chief Officer Mr. Haggai Khadiri and the Gender Officer Mr. Fredrick Musumba to appear before the Committee and to clear the air why the Department never adhered to the laid down procedures, they apologized by not adhering to the processes as required by law and the late submission of the Explanatory Memorandum and Regulatory Impact Statements. Consequently, they submitted the document entailing the explanatory memorandum and regulatory impact statement on the Kisumu County Women, Youth and persons living with disabilities fund regulations, 2019.

EXPLANATORY MEMORANDUM

Dated 22/01/2020

THE KISUMU COUNTY WOMEN, YOUTH AND PERSONS LIVING WITH DISABILITIES
FUND REGULATIONS, 2019

THE KISUMU COUNTY WOMEN, YOUTH AND PERSONS LIVING WITH
DISABILITIES FUND ACT, 2015.

DEPARTMENT OF EDUCATION, ICT AND HUMAN RESOURCE DEVELOPMENT

The Kisumu County Women, Youth and persons living with Disabilities regulations 2019 was taken for participation through the gender and culture committee since they are the representatives of the people falling under the category of women, youth and persons living with disabilities.

The committee raised issues which were addressed by the CECM: (County Executive Committee Member)

- 1) Object and purpose of the Fund as in the regulations to match that of the parent Act No 7 of 2015)
- 2) Capital of the fund to be paid out of the vote of the county government of Kisumu
- 3) The committee to adhere to their mandate as spelled out in the parent act (Kisumu County Women, Youth and people living with disabilities fund Act No 7 of 2015)
- 4) Engagement of compliance officers to make the fund run smoothly
- 5) Applications at ward levels should be on timely basis so that the process can be effective and timely.
- 6) Disbursement of the fund should be prompt and fair.
- 7) Applaud on interest rates for the categories.

REGULATORY IMPACT STATEMENTS

The object and purpose of this fund shall be to provide funds to be used for granting loans to assist women, youth and people with disabilities in Kisumu to promote their enterprises at such a cost which is affordable with the county.

A consideration as to the socio-economic status of women, youth and persons with disabilities revealed that persons with disabilities were more adversely affected as compared to the Youth

and Women. The Department therefore found it prudent to lower the interest rate of the people living with disabilities to 3% while that for the Youth and women was set at 5%.

The CECM acknowledges the delay in coming up with Regulations as required by the Statutory Instruments Act. However, this is due to the time constraints, the workload and financial constraints faced in the process.

However, after the Scrutiny of the document Members cautioned the Officers to be observing the laid down procedures and process by involving public Participation as enshrined in the Kenyan Constitution 2010 Article 10, 118,

Statutory Instrument Act, 2013 section 13(the Committee shall, in carrying out its scrutiny of any instrument or published Bill be guided by the principles of good governance and Rule of Law), Public Participation Bill, 2018,

Case law- Robert Gakuru verses the Governor of Kiambu County 2014(Public Participation refers to the process by which the public participate in something),

And lastly the SOCATT issue 2 of 2018(The Counties can only their objectives when they involve their citizens in all matters, legislations, Budget making process, Representation, Oversight, Regulation and public Participation).

JOINT COMMITTEE RECOMMENDATIONS

- (1) Allegiance to Oath of Office where Members swore to uphold, protect, respect the Constitution and pieces of Legislations.
- (2) The Executive should embrace Constant consultation during making of policies and Legislations.

WAY FOREWARD

Once approved by the House, the Office of the Clerk is to write and inform the relevant Department to start the operationalization of the said Regulation after publication at Kenya Government printers.

The Committee Recommended approval of the Kisumu County Women, Youth and People

Thank you, Madam Speaker and Hon. Members. Allow me to request Hon. Jagongo to second.

Temporary Speaker (Hon. Muga): Proceed Hon. Jagongo.

Hon. Jagongo: Thank you Madam Speaker. I stand to second the motion as read by Hon. Miruka. The motion came to this Assembly and it was rejected because there were some elements that were missing in the regulation. I am happy that the committee sat and did some work on the gaps that were missing. These regulations will help our County a lot. We have been having issues with target groups on the loans they would want to have to conduct their businesses and I believe once we pass this regulation, the County Government to proceed and

give loans. Eventually, we are going to empower the women, youths and PWDs. I therefore want to support the regulations and I thank the joint committee for a job well done. Thank you.

Temporary Speaker (Hon. Muga): Thank you. The report has been moved and seconded by Hon. Rashid and Hon. Jagongo respectively. I now want to open it for debate.

Temporary Speaker (Hon. Muga): Yes Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Thank you Madam. Speaker. I stand to support the Regulations to the Fund because it is prudent that we give our people a fund so that they can move on and to develop themselves. I support.

Temporary Speaker (Hon. Muga): Yes, Hon. Senior Member.

Majority Whip (Hon. Misachi): Thank you Madam Speaker. I stand to support this report and I want to say that at first, I was reluctant but I am glad it has come again. This fund was created way back in the First Assembly and the operationalization has delayed. Let us give green light to these regulations. It will be a plus and pleasure for this House if our people can start to access the funds.

Temporary Speaker (Hon. Muga): Hon. Ameso.

Hon. Ameso: Thank you Madam Speaker. I want to congratulate the Joint Committee for the good work. I can recall very well when this motion was brought to this Assembly and through the good guidance of the Speaker, the matter was again taken back to the Joint Committee and today we are having a very good report.

Madam Speaker, I am glad that today we are discussing this report as presented by my friend Hon. Rashid Miruka recommending that this regulation be approved and this has also been my prayer that this regulation be approved so that our vulnerable people can benefit from this fund.

Madam Speaker, it is not practicable when funds meant to benefit the less privileged are lying somewhere just because a regulation has not been approved. I Hon. Ameso as a representative of North Seme, I am glad to say that today is a good day because I know that the people of North Seme will benefit from this fund if this House approves this regulations. It is my appeal that this honourable House deems it fit to approve this regulations so that so that funds can be wired to these people for their benefit. Thank you.

Temporary Speaker (Hon. Muga): Hon. Samo.

Hon. Samo: Thank you Madam Speaker. I know that you could not easily recognize me because of the guidelines that required that we put on our masks so it is not unique to you. We are also experiencing the same when we are out because when you cover your face with a mask at times you cannot recognize and pass somebody who is close to you.

Madam Speaker, that notwithstanding, I rise in concurrence with the Regulations that has been moved by the able Chair for Culture, Hon. Miruka. This Act has been in place and we are aware that nothing has been happening simply because the regulations had not been put in place. I can recall attending some meetings at the Vic Hotel and we were put to task as an Assembly and our constituents were asking us, when is this Act going to be operationalized and we did give an undertaking that because I can reflect that meeting was attended by Hon. Sally Okudo, Hon. Beatrice Pamela and quite a number of us here and we gave our commitment that we are going to pass this Regulations as soon as possible.

Madam Speaker, I am happy today that this has come to fruition and we are approving this regulation so that the Youths, PWDs and Women in this great County who have unwavering support will greatly benefit from this Act. These funds are lying idle, I don't want to belabour on that because it has been reiterated by Members severally and if we pass this with haste. We would like to urge our Governor that he hastens the assent of this regulations to help unlock these stalemate to assist the youth and those susceptible to access these funds.

Madam Speaker, I would like to bring to your attention that yesterday we had then opportunity to visit several areas in our County and the way we saw our people suffering because floods are causing serious havoc in areas notable Kabonyo/Kanyagwal and other places. So, if this regulation is passed, it will unlock funds, those that are vulnerable are going to benefit from it. Thank you, I am in concurrence and I support.

Temporary Speaker (Hon. Muga): Hon. Olang'o, the floor is yours.

Hon. Olang'o: Thank you Madam Speaker. I want to say that if there are funds lying idle somewhere and our Youth, PWDs and the Women are suffering and I believe that this Joint Committee has done commendable work and I stand to support the approval of this Regulations. Thank you.

Temporary Speaker (Hon. Muga): Hon. Ollows.

Hon. Ollows: Thank you Madam Speaker. From the look at the moods in this House, I would like to call upon the mover to reply.

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

Hon. Miruka: Thank you Madam Speaker. Foremost, allow me to applaud Members for the robust contributions that they have made to ascertain that Kisumu County Youth, Women and PwDs Fund Regulation of 2019 is approved.

Madam Speaker, secondly, I equally want to request this House that, before the operationalization of this Fund, this Regulations must be taken for Gazettement.

Third, I would like to implore the Executive to be fair and adhere to the standards set in the in this Act and the Regulations and this should cascade and felt in all the corners of the County. Disbursements should be undertaken in a prudent manner and we don't expect to hear any Ward lamenting like we experienced the other time that there were funds like this and were not disbursed in the correct way. Madam Speaker, we would like to beseech the Executive this time round, and having gone through the legal stages to ensure that Members are equally involved in these endeavours and the beneficiaries of this fund to be people known by the MCAs.

Madam Speaker, in the past we all cried that the exercise was not carried out appropriately.

Madam Speaker, I have no words to explain my joy today, because if you can recall when the Committee on County Delegation Legislation first brought this report here, it was hard for everyone having known that funds were appropriated by this House and the Financial Year is coming to an end and we have not approved this Regulations. So, I want to say thank you very much and request your chair to do the necessary and affirm that the speed at which this would be implemented before the lapse of this Financial Year. Thank you.

Temporary Speaker (Hon. Muga): Thank you Hon. Miruka. This report was brought and moved before this House by the Chair, Children, Culture, Youth and Community Services and seconded by Hon. Jagongo and ably debated upon. Therefore, I want to put a question for the adoption of this Report from the Joint Committee of County Delegated Legislation and Children, Culture, Youth and Community Services on the Kisumu County Women, Youth and PWDS Fund Regulations of 2019?

(Question put and agreed to)

Temporary Speaker (Hon. Muga): Hon. Members, the County Assembly of Kisumu has approved the Kisumu County Women, Youth and PWDS Fund Regulations 2019 today Wednesday, 22nd April, 2020 at 03:10 p.m. I therefore direct that the Office of the Clerk to inform the relevant Department of the Executive to commence the operationalization of the said regulations after publication in the Kenya Gazette. Thank you.

Temporary Speaker (Hon. Muga): Next order!

ADJOURNMENT

Temporary Speaker (Hon. Muga): Hon. Members, there being no any other business to discuss, this House stands adjourned until Thursday, 23rd April, 2020 at 02:30 p.m.

(House arose at 04:25 p.m)

Addendum

Hansard Reporters

Zablon Otiende Reporter, In-charge

Edward Odanga – Reporter

Fanuel Okode – Reporter

Patrick Okoyo – Reporter

Jacklyne Atieno – Reporter

Dennis Onyango - Reporter