

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FOURTH SESSION

Wednesday, 30th September, 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): Mr. Clerk, can you please take us through the business of the day.

The Speaker (Hon. Oraro): Next order!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members welcome to this session. As we had agreed yesterday that sessions shall have 16 to 17 Members. Today, we are having a business that we began to transact sometimes back. Unfortunately, it had to delay due to one reason or the other. I believe all the Members who were supposed to be here today are present. The following Members are supposed to be present today;

1. Hon. Priscah Misachi.
2. Hon. George Ogutu.
3. Hon. Benny Oiko.
4. Hon. Jacktone Ogendo.
5. Hon. Seth Okumu.
6. Hon. David Arao.

7. Hon. Steve Owiti
8. Hon. Roy Samo.
9. Hon. Vincent Jagongo.
10. Hon. Samson Ameso.
11. Hon. Maureen Otiang’.
12. Hon. Rashid Miruka.
13. Hon. Florence Olang’o
14. Hon. Beatrice Pamela
15. Hon. Olga Aoko.
16. Hon. Gard Olima.
17. Hon. Kennedy Ooko
18. Hon. Consolata Ollows.

As agreed, those Members who are supposed to be present has to be here physically. The other Members can attend remotely.

We are having a slight challenge on our WhattsApp but I believe that it will be up in the next few minutes and the password remains the same. I beg that we stay put until the end of the business.

The Speaker (Hon. Oraro):Next order!

PAPER LAID

THE WELFARE AND EQUAL OPPORTUNITY COMMITTEE PROGRESS REPORT ON
THE GRATUITY AND NORMAL CONTRIBUTIONS FROM COUNTY ASSEMBLY BY
LAPFUND

BY

(HON. PAMELA ODHIAMBO)

(CHAIRPERSON, WELFARE AND EQUAL OPPORTUNITY COMMITTEE)

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

Hon. Pamela Odhiambo: Thank you Mr. Speaker. Pursuant to the provision of Standing Order No. 182 (6), I wish to table today Wednesday 30th September, 2020, the Welfare and Equal Opportunity Committee Progress Report on the Gratuity and Normal Contributions from County Assembly by LAPFUND. Thank you.

The Speaker (Hon. Oraro): Thank you. Honourable Members, I confirm the receipt of the Welfare and Equal Opportunity Committee Progress report on the Gratuity and Normal Contributions from County Assembly by LAPFUND as per our Standing Orders. I hereby direct that the House Business Committee to slot it for discussion in the next business.

The Speaker (Hon. Oraro): Next order!

NOTICE OF MOTION

THE WELFARE AND EQUAL OPPORTUNITY COMMITTEE PROGRESS REPORT ON
THE GRATUITY AND NORMAL CONTRIBUTIONS FROM COUNTY ASSEMBLY BY
LAP FUND

BY

HON. PAMELA ODHIAMBO

CHAIRPERSON, WELFARE AND EQUAL OPPORTUNITY COMMITTEE

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

Hon. Pamela Odhiambo: Thank you Mr. Speaker. Pursuant to the provision of Standing Order No. 45, I wish to give a Notice of Motion on the Welfare and Equal Opportunity Committee Progress Report on the Gratuity and Normal Contributions from County Assembly by LAP FUND. Thank you.

The Speaker (Hon. Oraro): Next order.

STATEMENTS

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

Hon. Samo: Thank you Mr. Speaker. I rise on Standing Order No. 42 even though it isn't written. Last night, a storey building fell in my area. I visited the place and realized that the Disaster Preparedness Unit in this County is still wanting. The other day Modern Electricals was on fire and it took a long time before response. Mr. Speaker I want to bring to your attention that the Disaster Preparedness in the County is wanting and something needs to be done. If we put some pressure on our government then something good can come out.

The Members of the public are blaming the MCAs. We visited Hon. Ogutu's Ward during the last floods and the members of the public were telling us that there is no help reaching them. In my place Alangwa, Dangira and Mambo Leo were flooded and it was very difficult for children to go to school. Thank you Mr. Speaker.

The Speaker (Hon. Oraro): We are very sorry Hon. Samo. This happened last night and a part from disaster preparedness, as Honourable Members, we also need to do our oversight role properly because for a building to go down, somebody ought to have been checking the construction process because, I believe that all the buildings have plans. It is also good to understand who approved and those contracted to do construction work. Are they qualified? Are they registered by the National Constructions Authority and what is NCA saying if they

authorize such a person to carry out a construction? What is the City Planning Office saying about the construction?

The sentiments by Hon. Samo are actually portraying the county in some negative light and it is our responsibility as leaders and especially as an Assembly to ensure that things are done in order. I will allow some few comments on the same.

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

Hon. Ojuok: Thank you Mr. Speaker. I want to agree that the level of preparedness is wanting and I can remember in this very House when there was an accident in West Nyakach. The Health Committee went to that particular department and there are some recommendations that were made. In regards to use of buildings and assessment, I want to say that there are two buildings in Pap – Onditi that were designed and supervised by the Public Works and at the same time, condemned by Public Works. There is need to look into our preparedness to handle challenges we might face. We must plan and not to say sorry every time. Thank you.

The Speaker (Hon. Oraro): Next order!

MOTION

3RD READING OF THE KISUMU COUNTY CLIMATE CHANGE BILL, 2020

BY

(HON. SAMSON AMESO)

(CHAIRPERSON, WATER, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE)

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

Hon. Ameso: Thank you Mr. Speaker. The Kisumu County Climate Change Bill, 2020 be read for the third time by the Clerk.

The Speaker (Hon. Oraro): Proceed Mr. Clerk.

(The Clerk reading the Kisumu County Climate Change Bill, 2020 for the third time)

The Kisumu County Climate Change Bill, 2020.

A Bill for an act of County Assembly of Kisumu to provide for a regulatory framework for enhanced response to Climate Change to provide for mechanism and measures to achieve low carbon development. Financial mechanism for the implementation of climate change adaptation activities and connected purposes.

The Speaker (Hon. Oraro): Honourable Members, now that the Kisumu County Climate Change Bill, 2020 has been read for the third time, I want to propose a debate that if there is any further amendment on the Bill. If the Bills has gone through all the stages that is required by the law. It was committed to the Committee of Water, Environment and Natural Resources a report was brought. Second reading was done and we went to the Committee of the Whole House and I believe there are sections where amendments were made which were adopted and this is the last stage. I propose for amendment if there is any further amendment on it.

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

Hon. Pamela Odhiambo: Thank you. I still want to plead with Honourable Members on the Formation of the Committee. There ought to have been a Woman representative and I want to request that it remains the way it was. It should not be amended Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Pamela, do you have any specific amendments? I heard of such discussions during the Committee of the Whole House. The report I heard is that there were unanimous agreements on such sections.

Hon. Pamela Odhiambo: Thank you Mr. Speaker. There were no such unanimous agreements. As usual, the number of men in this House is high as compared to female counterparts. It should remain as it was read by the Chair. I do not understand why the men have a problem with the word woman yet a woman is a mother, a sister and a daughter. When we are given opportunity, it should not be taken by anyone. Even if the House will rule otherwise, my position on the matter will remain so.

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

Hon. Ogutu: Mr. Speaker, we had a lengthy debate on the same Clause Hon. Pamela is referring to. If my memory serves me right, the Chair put a question. It was unanimously agreed that the section be amended. If the Honourable Member had any issue on that section, she can bring a further amendment which she has not done. She has opened a debate on a matter already debated and passed. You can provide direction Mr. Speaker

The Speaker (Hon. Oraro): Honourable Members, I want to agree with Hon. Ogutu because that is an amendment discussed during the Committee of the Whole House and the Liaison Chair reported on the agreement and I did put a question which was then agreed to.

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

Hon. Steve Owiti: Thank you Mr. Speaker. I want to agree with your ruling when a matter has been discussed and disposed of at the Committee of the Whole House; there is no need for any Honourable Member to appeal to our emotions for no apparent reason. I want to inform the Member that we talked of the marginalized gender. We have a situation where majority of the

members of a committee could be of female gender. How would we treat the other gender in such a situation? This is the reason as to why the suggestion was made. We do not just come to the floor of the House to say that we are agitating for the right of women. Men also have rights. Members in this House, whether male or female, are equal.

The Speaker (Hon. Oraro): Hon. Agolla

Hon. Agolla: Thank you Mr. Speaker. I refer you to Standing Order Nos. 122, 123, and 124. I believe that Hon. Pamela Odhiambo is completely out of order and we should debate on the same. At the Third Reading of a Bill, a Member can propose an amendment and call for a seconder which she has not done. I beg to advise the House.

The Speaker (Hon. Oraro): Thank Hon. Agolla for reminding the House of the Standing Order. Hon. Pamela, at the third stage, I said it is the last stage that if there is any further amendment, we can have a discussion on it and agree. However, the matter you have raised had already been dispensed with at the Second Reading where Members went to the Committee of the Whole House. I received a report from the Liaison Chair and I did put a question which was subsequently agreed to.

Hon. Pamela Odhiambo: Thank you Mr. Speaker. It is okay. Hon. Ngeta and Hon. Ken are naked in the House. I have also noticed that several Members are naked in the House. When did we change the dress code in this House Mr. Speaker?

The Speaker (Hon. Oraro): Serjeant-at-arm, kindly assist Hon. Ngeta and Hon. Ooko.

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

Hon. Ojuok: Mr. Speaker, issues of gender can be emotive. Hon. Pamela Odhiambo is concerned that there are no situations where you can find more women. In my Ward, the Ward Administrator is a woman, the Climate Change Officer is a woman, the Chief is a woman and the person I want to second from my office is a woman. Therefore, it is possible to have such situations.

The Speaker (Hon. Oraro): Thank you Hon. Ojuok for giving us a practical example. Mr. Clerk, kindly approach the Table.

(Hon. Speaker consults the Clerks)

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

Leader of Majority (Hon. Onyango): Mr. Speaker, it seems like there are no further amendments. I wish to call the Mover to reply.

The Speaker (Hon. Oraro): Hon. Ameso

Hon. Ameso: Thank you Mr. Speaker. I want to sincerely thank Honourable Members for their contributions on this important Bill. I want to say that the Bill before us is of great benefit more so to member of the public. The Bill will attracts funds from donors. I want to plead with Members to pass this Bill so that we get Grants from willing partners. This Bill places a lot of focus in the village. We have exhaustively looked at the Bill and made recommendations, and therefore, ask this House to approve it. Mr. Speaker, I beg to reply that the Third Reading be dispensed of. Thank you.

The Speaker (Hon. Oraro): Honourable Members, now that the Kisumu County Climate Change Bill 2020 has gone through various stages of Bill making process, where it was introduced in the House and First reading done after public scrutiny; subjected to Public Participation, Second Reading done and subjected to the Committee of the Whole House based on the Report from Public Participation. Finally, today, we have gone through the Third Reading with all the amendments, it is time now as per our Standing Orders that I put a question.

(Question put and agreed to)

The Speaker (Hon. Oraro): The Kisumu County Climate Change Bill 2020 is hereby adopted with amendments therein today the 30th of September 2020 at 1514 hours. I direct that the documents to be immediately prepared and sent to the Governor for assent.

The Speaker (Hon. Oraro): Next order!

MOTION

PLANNING, INDUSTRIALIZATION AND ICT COMMITTEE PROGRESS REPORT ON A
STATEMENT RAISED BY HON. PAMELA ODHIAMBO

BY

HON. GEORGE OLWAL

CHAIRPERSON

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

Hon. Ogutu: Thank you Mr. Speaker. I wish to read the progress report on behalf of my Chair, Hon. Olwal who is away on official duty.

The Speaker (Hon. Oraro): Proceed

Hon. Ogutu: Thank you. I want to clearly state that this is a Progress Report. It means we still have a long way to go. Therefore, I am pleading with Honourable Members that we shall ask for an extension so that we can complete this task. This is the progress report which was supposed to be presented by Hon. Olwal, Chair.

INTRODUCTION

PREAMBLE

Mr. Speaker and Hon. Members, pursuant to Article 185 (3) and Section 8 of the County Governments Act, 2012 read in tandem with Standing Order No. 193 of the Kisumu County Assembly Standing Orders, in the sitting of the Planning, Industrialization and ICT Committee on 8th September, 2020, the members of the Committee resolved that the Clerk to write a letter to CEC Member for Lands , Physical Planning and Urban Development to give response to the furnish the Committee with a detailed information in response to the statement made by Hon. Pamela Odhiambo, MCA Manyatta B on the floor of the House on the drainage challenges at wells Oil, Nyamasaria, Flyover Area and Carwash Bay Land at Manyatta.

Consequently the Office of the Clerk, issued a letter dated 8th September 2020 to CEC Member for Lands, Physical Planning and Urban Development to furnish the Committee with the required information on a date not later than Tuesday 16th September 2020.

MANDATE/LEGAL FRAMEWORK

Mr. Speaker and Hon. Members, the Committee on Planning, Industrialization and ICT derives its mandates from County Assembly Standing Orders No. 193 (5) (a) of the second scheduled of Kisumu County Assembly Standing Orders.

The committee on Planning, Industrialization and ICT shall investigate, inquire into, and report on all matters relating to the mandate, management activities, administration, operations and estimates of the assigned department.

MEMBERS OF THE COMMITTEE

Mr. Speaker and Hon. Members, the committee on Planning, Industrialization and ICT as currently constituted comprises of the following Members:-

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|--------------------------|---|------------------|
| 1. Hon. George Olwal | - | Chairperson |
| 2. Hon. Nancy Owiti | - | Vice Chairperson |
| 3. Hon. George Ogutu | - | Member |
| 4. Hon. Aslam Khan | - | Member |
| 5. Hon. Pamela Odhiambo | - | Member |
| 6. Hon. George Abaja | - | Member |
| 7. Hon. Joseph Olale | - | Member |
| 8. Hon. Jennipher Obonyo | - | Member |
| 9. Hon. Gard Olima | - | Member |
| 10. Hon. Habil Nyasuna | - | Member |
| 11. Hon. Olga Aoko | - | Member |

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- | | | |
|--------------------------|---|--------|
| 12. Hon. Priscah Misachi | - | Member |
| 13. Hon. Johnson Guya | - | Member |
| 14. Hon. Kennedy Ageng'o | - | Member |
| 15. Hon. Victor Rodgers | - | Member |

Secretariat

- | | | |
|-----------------------|---|------------------|
| 1. Mr. Boaz Ouko | - | Committee clerk |
| 2. Mr. Austin Ochieng | - | Clerk Assistant |
| 3. Mr. Patrick Okoyo | - | Hansard |
| 4. Mr. Kennedy Okise | - | Sergeant-at-Arms |

During the said meeting, the following members were present;

- | | | |
|--------------------------|---|------------------|
| 1. Hon. George Olwal | - | Chairperson |
| 2. Hon. Nancy Owiti | - | Vice Chairperson |
| 3. Hon. George Ogutu | - | Member |
| 4. Hon. Aslam Khan | - | Member |
| 5. Hon. Pamela Odhiambo | - | Member |
| 6. Hon. George Abaja | - | Member |
| 7. Hon. Joseph Olale | - | Member |
| 8. Hon. Jenipher Obonyo | - | Member |
| 9. Hon. Gard Olima | - | Member |
| 10. Hon. Habil Nyasuna | - | Member |
| 11. Hon. Olga Aoko | - | Member |
| 12. Hon. Priscah Misachi | - | Member |
| 13. Hon. Johnson Guya | - | Member |
| 14. Hon. Kennedy Ageng'o | - | Member |
| 15. Hon. Victor Rodgers | - | Member |
| 16. Mr. Boaz Ouko | - | Committee clerk |
| 17. Mr. Austin Ochieng | - | Clerk Assistant |
| 18. Mr. Patrick Okoyo | - | Hansard |
| 19. Mr. Kennedy Okise | - | Sergeant-at-Arms |

ACKNOWLEDGEMENT

Mr. Speaker Sir, special appreciation goes to Hon. Speaker Kisumu County Assembly, his officers and Members of the County Assembly Committee on Planning, Industrialization and ICT, and staff who participated in the whole process. The Committee would wish to extend its gratitude to the office of the Assembly Clerk for the quick response and facilitation on getting report from the CECM.

Mr. Speaker Sir, it is my pleasant duty, pursuant to Standing Order 182, to present the Progress Report of the Committee on Planning, Industrialization and ICT on the drainage challenges at Wells Oil, Nyamasaria Flyover Area and Carwash Bay Land at Manyatta.

FINDINGS

Mr. Speaker sir, the Committee on Planning, Industrialization and ICT received a report from the CECM for Lands, Physical Planning and Urban Development to the County Assembly in regards to the statement which was raised in this Honourable House by Hon. Pamela Odhiambo. (See attached)

A REPORT TO THE COUNTY ASSEMBLY OF KISUMU ON DRAINAGE CHALLENGES AT WELLS OIL – NYAMASARIA, FLY-OVER AREA AND CARWASH BAY LAND AT MANYATTA.

Drainage challenges at Wells Oil – Nyamasaria.

A fact finding mission was carried out to ascertain the drainage challenge at the above mentioned premise and its environs. It revealed as follows:

- I. That Wells oil sits on Land Parcel No. KSM/ Manyatta ‘B’/243 along Kisumu – Nairobi road.
- II. That the neighboring Land Parcel No. Kisumu / Manyatta ‘B’/64, which is the neighboring land parcel has also been acquired by the same company for their business expansion.
- III. That Wells Oil company has re-done sections of the drainage channel on the acquired piece of land; this is still inadequate as the locals are still raising complains of constant flood havoc during heavy down pour.
- IV. That the company has paved off the frontage part of the main highway, thus cutting off the drainage channels on the road side.
- V. That several other drainage channels in the area are also blocked resulting into flood menace during showers of rain.

Blockage of Drainage Channel by Toyota Kenya in Manyatta “B”.

A fact finding mission was done on the above challenge established as follows:

- I. That Toyota Kenya has done a perimeter wall fence on their property near Nyamasaria interchange.

- II. That the said perimeter wall has culverts installed to redirect flood waters into Nyamasaria and Auji Rivers. The culverts are small in size and are inadequate.
- III. That the flood menace in the area is as a result of R. Auji breaking its banks and discharging its waters into the areas near Toyota Kenya's site.
- IV. That there is an incomplete drainage channel along Kasawino road that creates blockage to the flood water.

WHETHER THE PARCEL OF LAND AT CARWASHBAY, MANYATTA JUNCTION NEAR BARAKA PETROL STATION IS PRIVATELY OWNED.

A site visit to the said land established as follows:

- I. That the said carwash bay is located at Manyatta junction, near Baraka Petrol station.
- II. That the carwash is used by the local youths to get their income.
- III. That the carwash is separated from the nearby private land by an existing drainage channel done by the contractors who were doing the Kondele – Nyamasaria By-pass.

RECOMMENDATION

Mr. Speaker sir, the following are the committee recommendations

- I. That a section of the paved off area at Wells oil to be demolished to ensure continuity of the road side drainage channel.
- II. That during opening up of roads, a lateral drainage be created at the access road besides Wells Oil.
- III. That River Auji and Nyamasaria to be desilted to their required depth to contain over flow during heavy down pour.
- IV. That incomplete drainages channels along Kasawino road to be opened to enable for free passage of flood water.

CONCLUSION

Mr. Speaker sir, pursuant to Standing Order No. 152 (2), of the Kisumu County Assembly Standing Orders, the committee requests this Honourable House to accord it a period of 14 days to properly investigate on the matters reported by the department of Lands, Physical Planning and Urban Development and cause a comprehensive report to be tabled before this Honorable House. Thank you. On that note, I call upon Hon. Aslam Khan to second this progress report, thank you.

The Speaker (Hon. Oraro): Yes, Hon. Aslam Khan

Hon. Khan: Thank you Mr. Speaker, I take this opportunity to second the progress report, and as it has been said by the Chairperson. It has been a big challenge to get the document pertaining to

the same so that we bring an up to date report. Therefore as it has been read on behalf of the chairperson we are of the request for more time to get all updates as required in this House, thank you.

The Speaker (Hon. Oraro): Honorable Members, now that the progress report has been presented by Hon. George Ogutu on behalf of Hon. George Olwal, the Chairperson of the Committee of Planning, Industrialization and ICT, and seconded by Hon. Aslam Khan, I want to propose that the report is open for deliberation.

The Speaker (Hon. Oraro): Yes, Hon. Jacktone Ogendo, Deputy Leader of Majority and MCA for Nyalenda “A”.

Hon. Ogendo: Thank you Mr. Speaker, I want to support the idea of the committee being given more time to get to the ground for further investigation of the matter. I am resident neighboring the Nyamasaria region and believe me when I tell you that when it rains it becomes a nightmare to the people residing there. I would also want to request that if the committee is granted time, they should move with speed especially now that the rains are on. This will enable them to have first-hand experience of the situation faced by those residents, thank you.

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

Hon. Ojuok: Hon. Speaker I stand to support the extension of time but would request that the committee should not restrict themselves to where the statement is referred. I believe that there are similar areas within the city which face the same situation or even worse. It is unfortunate how recommendations are made to new settlers who want to get a house at Nyamasaria area because they are advised to do so during the rainy seasons so that they are sure of the state of their environment all year long.

Consequently, this statement also exposes us to a show of some seriousness and I want to say that apart from the Hon. Member who brought this particular statement, we need to be a bit proactive when dealing with such issues because we have always handled them as emergencies yet they are issues that we can avoid. There has also been a tendency of the department dealing with desilting yet nobody ever questions where the silt came from so they really need to bring up that issue when they are coming up with this, thank you.

The Speaker (Hon. Oraro): Hon. George Ogutu is the report you are presenting from the Hon. Chair? Kindly approach the chair.

(Hon. Ogutu approaches the Chair)

The Speaker (Hon. Oraro): Yes Hon. Maurice Otieno Ngeta.

Hon. Ngeta: Thank you Mr. Speaker, I want to support the extension of time as requested by the Chairperson of the Committee of Planning, Industrialization and ICT. The report is evidently

elaborate and through your chair we can give them more time to do much fact finding and bring a conclusive report. I happened to have witnessed the menace in Manyatta Ward, along Nairobi Road and surely it is a tragic scene to the area residents when it rains. With due respect I request this House to deal with this issue head on so that we can have proper future planning not only in the city but also in other urban areas within the County, otherwise thank you.

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

The Leader of Majority (Hon. Onyango): Thank you Mr. Speaker, I also want to support the request by the committee for an extension of time so that they can bring a comprehensive report. Listening through the report being read by my brother Hon. Ogutu, I captured an almost completion of the report save for the establishment of whether some parcels of land are privately owned or not. I would request that during this period of extension of time, the committee should confront the best way to curb this issue of flooding. This is because in the response from the department's report they are talking about some kind of Master plan that is currently being looked into, and according to them the Master plan is estimated at a cost of Kshs. 2,500,000,000 billion. However, are we going to wait for the Master plan to be implemented or is there something that can be done so that this issue of flooding in this area is controlled.

I once visited Hon. Ogendo's area and there was a large chunk of land that was being cultivate, however when I passed though the same place earlier today, the place has become a swamp due to excess flooding experienced in that area. Mr. Speaker you can imagine the loss incurred from this investible land due to the floods menace. During the budget process we emphasized the need to have a solution to this perennial flood that usually affects our people. I am not sure if this is on course and I would request the committee to establish if indeed there are plans to have this issue solved. Let the committee not just find the ownership of the land but also the solution to the impending floods.

Lastly, even as the city tries to come up with the Master plan, is it possible for the area that is frequently affected by the floods be prioritized because the effect is adverse and might not wait that long, thank you.

The Speaker (Hon. Oraro): Thank you, Yes Hon. Pamela Odhiambo.

Hon. Pamela Odhiambo: Thank you Mr. Speaker, I also want to support the committee's request to be given more time to get more information pending from the Executive. Clearly what they have done is quite commendable. However, there is a part raised by Hon. Laban Ogendo on the drainage bordering Nyalenda "A", which was blocked because there was no path. I would wish that in doing so, they should involve land offices to give us the map showing where these drainage systems ought to pass.

The Speaker (Hon. Oraro): Yes Senior Member, Hon. Priscah Misachi.

The Chief Whip (Hon. Misachi): Thank you Mr. Speaker. As we are seeking for a solution, we need to remember that this area that is referred has a River *Wigwa* and there were people who permanently desilted it to ensure that water flows to the Lake Victoria. I believe that there is somebody sleeping on the job because now as you walk along that place you cannot see people working on the same. I also believe that the Department of Roads, Public Works and Transport, which deals with drainages to concentrate with our Ward Funded Projects by looking at those areas experiencing such because we are the people on the ground. If we take people from the Executive not much can be done. Therefore I suggest that we take people on the ground, some which are retired and old but have the knowledge of these drainages so that they can help man these drainages. If you give us time we can get a chance to look for such people for the same and aid in getting a permanent solution to this flooding, thank you.

The Speaker (Hon. Oraro): Yes Hon. Maureen Otiang’

Hon. Otiang’: Thank you Mr. Speaker, even as I support the extension of time as requested by the committee, there is a curious issue that has come up with the report; That Toyota Kenya has built a perimeter wall on their property but on the same property of the perimeter wall, the culverts that they have installed is small in size and inadequate. As you are aware that if any development is done, NEMA and a team pre-visit the site and get to advice. I believe that they should also be roped in because in their design of their property, there are people who are in charge of the said development. These people should also be summoned to give reason to why they decided to put smaller culverts, which are inadequate thus cannot help in mitigating the floods in that area.

So as you give them time, I would ask that they check on the relevant authorities to come in and give their input on the reasons why they did not advise accordingly, because if they did, one of the findings would not have been here. Otherwise I support that they be given more time. Thank you.

The Speaker (Hon. Oraro): Yes, Hon. Rashid Miruka.

Hon. Miruka: Thank you Mr. Speaker. Based on the mood in the House, I wish to call the mover to reply.

The Speaker (Hon. Oraro): Hon. George Ogutu.

Hon. Ogutu: Thank you Mr. Speaker and the Hon. Members who have debated actively on this report. Hon. Members have supported the extension of this exercise. During the discussion, we have also received new areas which we are going to exhaust. Let me thank Hon. Prisca Misachi for bringing us another River which we need to look at called River Ugwa. Hon. Pamela Odhiambo has brought us Laban Ogendo channel. Hon. Misachi is a Member of this committee. With her experience in this city, if the committee is given more time, she is going to help the committee to dig deeper into this menace of floods. But I don’t believe that flooding is a reserve

of this city alone. I personally come from a very flood prone area called West Nyakach. I believe that it is a responsibility which we should take as Hon. Members in conjunction with the Executive. With that, I believe we are going to bring a very good report in this Assembly if given additional 14 days. Thank you.

The Speaker (Hon. Oraro): Hon. Members, now that the Progress Report on Drainage Challenges at West Oil Nyamasaria Flyover Area and Car Wash Land at Manyatta as presented by the Standing Committee of Planning, Industrialization and ICT on behalf of the Chair by Hon. George Ogutu, seconded by Hon. Aslam Khan, debated, it time that I put a question.

(Question put and agreed to)

The Speaker (Hon. Oraro): Hon. Members, I direct that the final report, as has been requested by the committee be presented to the Assembly within two weeks that is Wednesday 14th October, 2020.

The Speaker (Hon. Oraro): Next order!

MOTION

IMPLEMENTATION COMMITTEE REPORT ON THE PROCUREMENT OF STANDBY
AUTOMATIC GENERATOR TENDER NO. CGK/FIN/ CP/2018 /2019/04 BY THE COUNTY
GOVERNMENT

(BY HON. ERICK AGOLA –CHAIPERSON)

The Speaker (Hon. Oraro): Yes, Hon. Erick Agolla.

Hon. Agolla: Thank you Mr. Speaker for according me this opportunity.

Mr. Speaker and Hon. Members, pursuant to Standing Order No 41 (b) of the Kisumu County Assembly Standing Orders, a statement was raised by Hon. Jacktone Ogendo seeking response from the Chairperson of the Committee on Implementation regarding Tender No. CGK/FIN/CP/2018/2019/04 awarded to Winmax Global Co. Ltd on Tuesday, 30th June, 2020 by Hon. Jacktone Ogendo (See Annex i).

Consequently, in accordance with Article 185(3), Section 8 of the County Government's Act, 2012 read together with Standing Orders No. 191 of the Kisumu County Assembly Standing Orders, the Speaker committed the matter to the Committee on Implementation to investigate, inquire and cause a response to the House within the next twenty one (21) days.

The Clerk of the Assembly notified the Committee on Implementation to convene its meeting on 1st July, 2020 vide Committee Notice dated 31st June, 2020 to deliberate on the Statement and chart a way forward.

Establishment and Mandate of the Committee

Mr. Speaker and Hon. Members, the Committee on Implementation is established under Standing Order Nos. 191 of the Kisumu County Assembly Standing Orders whose mandate pursuant to Standing Order No. 191 is as follows:

The Committee shall scrutinize the resolutions of the County Assembly (including adopted Committee reports), Petitions and the undertakings given by the County Executive Committee and examine –

(a) Whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and

(b) Whether or not legislation passed by the County Assembly has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.

(3) The Committee may propose to the County Assembly, sanctions against any member of the County Executive Committee who fails to report to the relevant select Committee on implementation status of projects and programs under his or her docket without justifiable reasons.

Composition.

The Committee as currently constituted comprises the following Honorable Members:

- | | |
|----------------------------|------------------|
| 1. Hon. Erick Agolla | Chairperson |
| 2. Hon. Roy Samo | Vice Chairperson |
| 3. Hon. Sally Okudo | Member |
| 4. Hon. Inviolata Adhiambo | Member |
| 5. Hon. Aslam Khan | Member |
| 6. Hon. Vincent Jagongo | Member |
| 7. Hon. Steve Owiti | Member |
| 8. Hon. Maurine Otiang' | Member |
| 9. Hon. Maurice Ngeta | Member |
| 10. Hon. Caleb Omoro | Member |
| 11. Hon. Philemon Ojuok | Member |

Secretariat

- | | |
|-------------------|---------------------------|
| 1. David Ayieko | Committee Clerk |
| 2. Belinder Owino | Assistant Committee Clerk |

- | | |
|-----------------|------------------|
| 3. Herman Moses | Clerk Assistant |
| 4. Rose Baraza | Sergeant-at-Arms |

ACKNOWLEDGEMENT.

Mr. Speaker and Hon. Members, may I take this opportunity to gratify all the Members of the Implementation Committee for their valuable input and immense contributions during this in-depth investigation that ensured that the recommendations raised in this matter are achievable and are of benefit to the County.

Many thanks to the Offices of the Speaker and Clerk of the Assembly for their extreme support and goodwill in the entire duration of the inquiry. Moreover, they provided a conducive atmosphere and environment to ascertain the process was fully undertaken.

Finally, I would also wish to applaud the technical staff attached to the Committee for emulating the spirit of teamwork. This has been attributed by the tremendous efforts put forth to ensure the investigation was a success vide report writing notwithstanding the challenges experienced during the probing period. Let us not forget the Novel Corona Virus pandemic which also came in unceremoniously with stringent measures hampering social gatherings and Sector Work Groupings.

I therefore humbly submit this Response before the House on behalf of the Implementation Committee Members for consideration.

Thank you.

LEGAL BASIS OF THE INQUIRY

Mr. Speaker and Hon. Members, the Subject matter of this inquiry is guided by the Public Finance Management Act, 2012, the Public Procurement Disposal Act 2005, the County Government's Act, 2012 and the following regulations anchored on the Acts.

- The public procurement and disposal (county Governments) regulations, 2013.
- Legal Notice No. 106 of the Public Procurement and Disposal Act (No. 3 of 2005)

Rationale of the Investigation

The investigation aimed at determining whether there were any breaches of the Public Procurement and Disposal Act, 2005 (Repealed) and its attendant regulations in processing of the subject tender.

Scope of the investigation

The investigation entailed examining all the records/ documents availed to the Committee related to the subject tender and visiting Jaramogi Oginga Odinga Teaching and Referral Hospital to ascertain the status of the subject Tender.

Limitations of the Investigation

The CEC Member for Finance and Economic Planning failed to submit relevant documents and information regarding the procurement records of the subject Tender.

He further failed to respond to the Committee`s additional queries (see annex iv) on the subject matter upon identification of gaps overlooked as follows:

1. The Specification of the purchased item and whether it conforms to the advertised tender for the same.
2. The letter of authority permitting the transfer of the procured generator to Jaramogi Oginga Odinga Teaching and Referral Hospital.
3. Whether the Department has proper inventory records, and if not, what measures have been put in place so far to capture inventories in the department?
4. Why the procured generator has been left idle not serving its intended purposes?
5. What plans does the Department have with the mentioned item?

Methodology

The investigation involved scrutiny of the tender documents and records provided to the Committee and fact-finding visit.

BACKGROUND INFORMATION

Mr. Speaker and Hon. Member, take notice that the understanding of the Committee was that the subject of the procurement was processed under the repealed Public Procurement and Disposal Act, 2005 (the repealed Act), the contract having been signed on 23rd April, 2019 being the date the Local Service Order was signed. It is therefore the interpretation of the Committee that the administration and Management of the resultant item was subject to the provisions of the repealed Act and attendant regulations which demands that the procuring entity ought to have ensured that the intention of the contract for the subject tender was fulfilled.

The Committee was also informed, pursuant to the documents presented by Hon. Jacktone Ogendo as follows;

- i. That Winmax Global Company Ltd was paid Kshs. 6,000,000 on 28th November, 2019 being the contract sum for the supply and installation, testing and commissioning of the Automatic Static Generator. (See invoice in Annex ii).

- ii. That the purpose of the procurement of the Standby Automatic Generator was to be used as a power back-up for the Office of the Governor.

Following the Committee's observation on the payment invoice of the Tender in question, the Committee resolved to conduct a fact-finding visit to Jaramogi Oginga Odinga Teaching and Referral Hospital on 6th July, 2020 to find out the status of the Automatic Generator.

OBSERVATIONS

Mr. Speaker and Hon. Members; pursuant to the Committee's visit to Jaramogi Oginga Odinga Teaching and Referral Hospital, the Committee found;

- i. That the Automatic Generator was procured and stored at JOOTRH warehouse without testing, installation and subsequent commissioning.
- ii. In a letter dated 15th July, 2019 vide letter reference S&E 11 VOL.1 (see invoice iii) the Chief Executive Officer; S.A Ochieng' informed the Committee that the Standby Automatic Generator was brought to JOOTRH for storage and is in good condition. The Hospital management was not made aware as to why the Department of Energy and Industrialization had brought the Generator for storage at JOOTRH.
- iii. The Committee also observed during its visit at the Hospital that the Stand-by Automatic Generator is in the hospital's procurement store and is not in use. The Committee was however unable to discern whether the generator is functional or dysfunctional.

FINDINGS

Following the observations made during the fact-finding visit, the Committee found;

- i. That the Department of Finance and Economic Planning as the procuring entity acted outside the intendment of Section 6 (1) of the Public Procurement and Disposal (County Governments) Regulations, 2013 that requires that the procurement of the Automatic Standby Generator should have been made in a systematic, corporate and structured manner.
- ii. That the CEC Member failed to show cause as to why the Automatic Standby Generator was NOT tested, installed and commissioned for use at the Governor's Office despite the communication by the Committee to do so.
- iii. That the Company awarded the Tender; Winmax Global Ltd Company failed to fulfill the full instructions of the tender despite being paid a sum amount of Kshs. 6,000,000 being the contract sum for the supply and installation, testing and commissioning of the Automatic Static Generator.
- iv. That Payment was done without the necessary supporting documents and therefore the details of the transaction and that of the tender item could not be verified.
- v. That No inventory records were seen by the Committee.

RECOMMENDATIONS

The Committee recommends;

- i. That the Public Procurement Oversight Authority (PPOA) as a body that oversees all public procurement processes should take up the matter since the procurement of the Automatic Standby Generator is bordering on procurement malpractices which needs to be investigated.
- ii. That the County Government should prepare an adequate procurement plan. It is a requirement under the Public Procurement and Disposal Act, 2005 to prepare a procurement plan by the beginning of the financial year and monitor its implementation to ensure adherence to it. The Committee notes that it is the inability or lack of procurement plan that has resulted to the subject tender being dumped at JOOTRH.
- iii. That the PPOA should do oversight of the procurement process within the County regularly in order to help the County comply with required procedures. Any procurement that does not follow due process should be nullified and the necessary disciplinary action taken to deter such cases in future.
- iv. That the County government should ensure the timely management of procurement procedures to guarantee timely delivery of services. Additionally, the simultaneous procurement of goods could save on costs.
- v. There is need for careful selection of procurement teams with a major focus on integrity, including signing of an ‘integrity pact’ by every member of the team involved in any aspect of the procurement process, should be adopted.
- vi. That since the Automatic Standby Generator is lying idle at JOOTRH, the Department of Finance and Economic Planning should consider repurposing the Generator for use in institutions such as Sub-County Hospitals that lack standby generators. The Department should further state in writing which Sub-County Hospital will be earmarked as a beneficiary of the Automatic Power Generator to avoid the issue of push and pull of the item by the Health facilities.
- vii. There is need for testing and inspection of the procured asset to ascertain that it’s indeed functional, preferred and check whether there is any potential downtime.
- viii. Discreet decision-making on items to be purchased should be considered before and when making a procurement plan to avoid misallocation of funds on goods and services not needed.
- ix. That the Department of Finance and Economic Planning to furnish the Committee with the documents addressing the gaps that were left not responded to i.e. Sufficient Inventory Records of the Procured Standby Automatic Generator
- x. That the Department of Energy and Industrialization to justify why it transferred the Power Generator to JOORTH warehouse for storage not serving its intended utility of testing, installation and commissioning.

- xi. That the County Secretary to give an explanation why the Office of the Governor budgeted for and went ahead to procure the item if they knew it was not a priority in their list of preferences.

Mr. Speaker and Honorable Members, a progress report on the mentioned item was tabled before this Honorable House on Tuesday 15th September, 2020 for consideration. Fortunately, we were added more time to delve on the issues not highlighted in the report (see annex vi).

The Committee sought to invite the CEC Member for Finance and Economic Planning to that effect to respond on the gaps and further advice on what they plan to do with the Standby Automatic Power Generator. This comes at a time when the Committee had sent letters seeking to be furnished with responses but to no avail.

The Committee has noticed that there is lack of cooperation from the Executive wing and this is a concern that is cutting across. This is a matter that is very handy and hence we call on the Assembly to give a directive on how to address the issue.

CONCLUSION.

Mr. Speaker and Hon. Members, it is therefore my honor and privilege, on behalf of the Committee on Implementation to table this report before this Honorable House for consideration and adoption. I request Hon. Roy Samo, the MCA for Kajulu and the committee Vice Chair to second.

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

Hon. Samo: Thank you Mr. Speaker. I wish to second this report as ably presented by the Hon. Chair. I want to fully associate myself with it because we went to the ground on a fact finding mission, and the report has captured exactly what we saw on the ground. When the committee visited Jaramogi Oginga Odinga Teaching and Referral Hospital, in the company of the Chair for Health Hon. Vincent Jagongo, we realized that the Standby Generator had been purchased but without any request. The institution communicated to us that they never requested for it and neither did they need it because they have a Backup Generator. They told us they have never used it at all because of the backup generator and stable electricity provision. So a generator was bought; was there need for it? No. Was there value for money? No. Why did we have to procure the generator to the tune of tens of millions of shillings? So some questions need to be asked and a report needs to be availed before this House if we are to take our work seriously. If we just leave it like that because it has been bought, then I make a request for the sub county hospital in my area - the Gita Sub county hospital, to be given that Standby Generator because for the last two years, the equipment has never given value for its money. So I second. Thank you.

The Speaker (Hon. Oraro): Hon. Members, now that the report has been presented by the Chair Implementation Committee Hon. Erick Agolla and seconded by the Vice Chair Hon. Roy Samo, I want to propose a question that the report is open for debate.

The Speaker (Hon. Oraro): Yes Hon. Jacktone Ogendo.

Hon. Ogendo: Thank you Mr. Speaker. First, I commend the Committee for the job well done. I have noticed that the committee went through a lot; they did their best but it seems there was no cooperation from the Executive. There is more than meets the eye in this Supply of the Standby Generator. It is either a misplaced priority or a serious flaw in procurement. If the highest office in this county – the office of the Governor, can place a request to be supplied with a standby generator which was placed in our budget and passed through this House, eventually it is procured by the Department of Energy and finally this generator finds itself within another department – Health Department at JOOTRH, there is something sinister which we really need to look into. That is why the recommendation of the Committee that this matter should be taken up by Public Procurement Oversight Authority would augur well with me. The reasons are;

Mr. Speaker, first, the Executive is not cooperative - it seems they know what they did and secondly, this county must have been supplied with ‘*hewa*’ (air). I think this project is a “white elephant” because we cannot even prove that it has been installed. I therefore suggest that this House should ask the Executive to take the Standby Generator to other areas that need it, like Hon. Roy Samo has suggested - since it is of no use at JOOTRH. Thank you Mr. Speaker.

(Hon. Speaker takes leave and Hon. Steve Owiti takes over as Temporary Speaker)

The Temporary Speaker (Hon. Owiti): Any other contribution now that the matter has been opened for debate. The report has been seconded and even Hon. Ogendo who raised the matter has contributed. Any other contribution?

The Temporary Speaker (Hon. Owiti): Hon. Maureen Otiang’.

Hon. Otiang’: Thank you Mr. Speaker. I am a Member of this Committee. But there is a trend in this county. As we do our oversight - lately we have been following on so many projects in this county – and we find that most of the officers do not put into consideration the projects that are to be implemented. In this case of a generator, there is no way somebody can just wake up to put up a request for something to be done using public money – something which is not a priority. Even if there was, why is it still in the store? You remember there a case where we had issues with the masks. Masks were bought in this county and they were never used. This is a classic case of officers hell-bent on doing things without following the PFM Act. It is high time we charged these officers, because for people to just lose money like that, it is unacceptable. As a House, we need to resolve that we are going to be hard on officers who are happy using public money without putting the required effort on their job. So as we debate, I think it should be a recommendation of this House that the person/people who came up with something akin to a

“white elephant” should be surcharged so that it deters other people who want to use public money anyhow. With those comments, I support.

The Temporary Speaker (Hon. Owiti): Thank you. Hon. Aslam Khan

Hon. Khan: Thank you Mr. Speaker. First, as you may be aware, I sit in the Budget Committee. All these elected leaders from the thirty five wards within Kisumu County are looking for even a penny so that they can utilize this money for their representation role on development matters. However, there are people here who just wake up one morning and decide to misuse public funds arbitrarily without thinking that the money should be given back to the devolution where the people are. Mr. Speaker it is very interesting to note that even without a user requesting for such a machine for a given area, eventually when an item needs to be purchased, there must be a user who must have put up a request from such a department. However, it is quite astonishing in the manner in which they just purchase items without laid down procedures.

Even after procuring the item, they did not even bother to test, install or commission it. Sincerely speaking, in this twenty first century where are we? As recommended that the oversight authority should look into this matter, they need to come out strongly in taking necessary action that may be required, in order for the tax payers’ money to show its value.

In the meantime when the generator is there , let all the elected leaders in Kisumu County collectively with the help of the committee see where this generator can be taken for effective userather than leaving it there lying idle at the expense of common *mwanainchi*.

Additionally, the officers involved in this saga should be questioned to show cause why purchasing such abig item worth Kshs 6 million was done. If found culpable, let them be surcharged and if possible then all the necessary legal action be taken for them. There is no short cut for that. Mr. Speaker, day in day out here we as Budget and Appropriations Committee whenever we are interrogating the Estimates, we try hard to make sure that even Kshs 100,000 is well balanced to meet the needs of the thirty five wards represented. Yet, somebody here just wakes up and goes on to buy a whole generator at a cost of Kshs 6 million without considering what is required first.

The other day we were fighting for; Kshs 20 - 30 million, Kshs 30 -21 million, and we were also looking for Kshs 5.5 million to put in the gap. So, where are we heading to? We need to be serious Mr. Speaker, Finally, I support this report. If it is possible, further action needs to be taken, thank you.

The Temporary Speaker (Hon. Steve): Thank you Hon. Member. The Majority Whip, who is also a senior Member.

Chief Whip (Hon. Misachi): Thank you Mr. Speaker, I will go by the recommendations of the same committee which states that the Public Procurement Oversight Authority be given this task

to oversee. This is because in the Department of Health, there are so many suppliers. If they can just supply items just for the sake of it, yet there wasn't need for that in the first place, that's a waste of public money. If that particular officer is put to task so that he /she is surcharged for this kind of haphazard procurement, then these other officers will be careful on whatever they intend to procure.

Mr. Speaker, it is also a good idea for the Committee member to suggest that, each and every department prepare a Procurement Plan indicating what they want to procure so that as an Assembly and the entire County will know what each department want without appropriating money for each department minus that kind of such a knowledge. In my suggestion, this report is well done. But, we need to stick to this other one of approaching Public Procurement Oversight Authority to take further notice plus critically oversee supplies within the Health Department.

The Temporary Speaker (Hon. Steve): Hon. Ogutu.

Hon. Ogutu: Thank you Hon. Speaker. I want to fully support this report. This Committee has done a very beautiful report for this House. My concentration was on their Findings and Recommendations. We have noticed that this particular purchase was a hoax in the first place. Some people wanted to make money out of it. That is because when we look at the findings, nobody put a request for this generator to be purchased. It was very necessary to be tested and commissioned after it was bought.

However, it was very unfortunate that today the item is kept idle at Jaramogi Oginga Odinga Teaching and Referral Hospital. This is an item which was procured in the month of November last year (2019) and is still being kept there. Yet, there are other Sub County Hospitals which do not have power back up.

First of all, let us give this Health, Housing and Sanitation Committee a teeth to bite. If not, let it be given to another committee which can dig deep into this particular saga. This is the greatest saga in the County Government of Kisumu. That other relevant committee should dig dip in knowing why this item was procured yet there was no request placed by any of the user departments.

The findings of this progress report are very obvious. If you check at number one, which states that the Department of Finance and Economic Planning has the procuring entity acted outside the in tandem of section 6 (1) of the Procurement and Disposal Regulation 2013. But, if at all we take this finding serious, and cannot however also give this particular committee, then this is where PIC/PAC Committee comes in to investigate further the exact reason for the procurement of that generator.

We spent about Kshs 6 million in buying this item, which is an amount that if you give me today and tell me to take it and invest it in my ward (West Nyakach), it will be enough for me to build two new and complete dispensaries.

For Two years down the line, Kshs 6 million is kept lying idle and we cannot even tell whether it is rotting. There were no test or installation done. If it was to be tested today, that means you will spend another money to bring new people to do the testing and installation. Mr. Speaker, let us treat this matter as a scandal and bring these officers to book. If also possible, the chairperson should give a directive that investigation on the item be handed over to PIC/PAC Committee to recommend action to be taken against these officers.

We do not even know whether the generator is functioning because it was bought and later on transferred to Jaramogi Oginga Odinga Teaching and Referral Hospital. Even if the officer in charge at the hospital confirms that it is clean - we are not also not aware whether it is working- it can be clean outwardly but inside it is defective. Let us not only adopt this progress report but with a lot of reservations. That will enable us to cushion our tax payer money.

Mr. Speaker sometimes we are ashamed, in a case of our recent visit to Uasin Gishu County to benchmark with their Agricultural Development Corporation (ADC). It is wonderfully and well managed. Everything is available; be it vegetable maize, cows, goats, etc. But, what about ours? It is because of such officers who cannot allow us to manage our institution well. The only thing we can do about such practices is to reprimand them. Before we go down with one of them, I believe such a similar act will continue and whenever there is a wastage of money of such magnitude, the people of Kisumu County are the ones who suffer. Mr. Speaker can you imagine what Kshs 6 million is capable of doing to the County of Kisumu in terms of building and development?

Someone decided that he/ she wanted to make some money out of it. The item is bought and kept in a store. We cannot allow that to happen here in Kisumu County. Let those who participated in this go down with it. The rest who are intending to do so while knowing that Kisumu County is not a joke. Let us cushion our people's money.

Other counties are utilizing their monies well yet, ours are kept on stores. I am not happy even though I fully support this report at the same time. The Committee Members have done a commendable job, now it is only you who can go further hand over the investigation to a well-known committee which can dig deep and bring these people to account for their misdeeds. Otherwise I rest my case, and thank you Mr. Speaker.

*(Change of Chair, The Temporary Speaker (Hon. Steve Owiti) leaves the Chair as the Speaker
(Hon. Oraro) takes the Chair)*

The Speaker (Hon. Oraro): Because of gender, let me now consider Hon. Beatrice Pamela. Serjeant-at-arms can you help Hon. Beatrice Pamela?

Hon. Beatrice Pamela: Thank you Mr. Speaker, I beg to support this report. It is a bit disturbing that some officers can sit somewhere and procure an item without a requisition which is the

initial stage of any procurement process. To make matter worse, a colossal amount of Kshs 6 million can be used to procure an item that is not needed.

Mr. Speaker, I feel that this is a weighty matter that as an Assembly, we should not just let it go like that. We have a committee that is given the mandate to investigate on every Public Investment and Accounting. After that they should come up with concrete recommendations on what should be done and the necessary action to be taken against the officers involved in bridging the Law to procure an item that was not requested for bin the first place. Thank you.

The Speaker (Hon. Oraro): Hon. Members, because a Member from Nyando Sub-County has not contributed, let me give Hon. Maurice Ngeta a chance to debate.

Hon. Ngeta: Thank you Mr. Speaker. I am raising my voice in full support of the report. There is a tendency of perennial violation of Public Finance Management Act (PFM) in this County. I have witnessed several occasions where there are procurement being done without adhering to the laid down procedures. There are procedures to be followed.

First there is Procurement plan which is supposed to be in place thereafter there is tendering or before that there is an advertisement of anything which is supposed to be procured at any cost of above Kshs 5 million. Mr. Speaker, I believe that this was falling under that category of which it was supposed to be advertised in Kenya Gazette. Third, there is the tendering process. If you see all these things were violated by one of our officers from the Executive.

Mr. Speaker, this is just a taste of it and the public are watching us as an Assembly. It is not a matter we should take of lying down. As my colleague said that we must bring sanity within this Government. We must have a consultative meeting with the leaders from the Executive and come up with proper Procurement Procedures as well as proper way of doing things in this county.

In addition, this impunity must come to an end because, these people think we are not doing our job. Therefore, we must act on this so that the public fund be managed with respect. Mr. Speaker thirdly there are procurement procedures like tendering and if you look at this report all these things were violated by one of our officers from the Executive. Thank you.

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

Hon. Steve Owiti: Thank you Mr. Speaker. First I fully want to associate myself with the recommendations that have been given in this report. As a County and as one Arm of the County Government of Kisumu, I am a bit perturbed that in this era and with the new Constitution of Kenya 2010, Public Procurement Act is very strict and anybody who decides to violate any section of this law is kind of knocking the doors of our prisons. When you look at one of the most stringent legislation that is in place, it is the Public Procurement Act read together with the relevant pieces of regulations. There is no way that anybody in this Republic would go out and

procure an item, even a pen that was never budgeted for. But if it was budgeted for there must be a procurement plan that must be in place.

Mr. Speaker, it is perplexing that as we struggle with the little resources that we have to allocate money to projects that would change the livelihood of our people, a few individuals who are in the payroll of this County still find it very fashionable to decide and buy items that have no value to the County.

The findings of this committee which I am also a Member are not only disappointing but show the level of rot that we have in our procurement systems. As it has been echoed by other Members of this House; we have a duty as Members of the County Assembly of Kisumu to ensure that never again shall we allow this level of impunity and rot to continue.

Mr. Speaker, we are all aware that Members of the public are crying out there on incomplete projects and yet projects that have no value to the people are rushed and are procured and paid for while what goes to help the people of this County are never given priority. This is simply because those who are tasked to implement the approved budget have personal interest and therefore do not look at the bigger picture for this County or the County Governments were created.

Apart from recommending that the Public Procurement Oversight Authority comes and address this matter, I believe that as an Assembly, I would like to support that we must take action against those who are found culpable of violating any Act because the violation of the Public Procurement Act and the regulation is a criminal offence. I want to believe that the Assembly has the authority to ask that a criminal proceeding be instituted against those who are found to be culpable. In an event that we are not having enough evidence then the investigative authorities should take up over the matter as soon as yesterday.

Mr. Speaker, I would wish to urge the Members of this House that we should not be seen to be subjective but we must stand tall and say that this level of operation and this County Government; we cannot say yes. Therefore I fully support this report and ask Members that let us approve this report thereby its recommendations to be followed to the letter so that we are not only seen to be an Assembly blabbering words but we are only seen to be an Assembly of action.

Mr. Speaker, we have heard several debates, we have made several recommendations in this House and it is disappointing that in this time and era we can still summon certain Members from the Executive and they still fail to answer to the call. A duty that is given to us not by ourselves but by the Constitution which is the supreme law of this Country; I believe that, as an Assembly we can no longer tolerate this behavior of the Executive Members who think that they are above the law. I want to ask that those who are called upon and asked to appear and issue statements or evidence with regard to this procurement and have failed in any way to respond, then action should be taken against them without fear or favour.

Mr. Speaker, I support that we move forward and this case be one of its own kind where we ensure that we follow it to its conclusive end. Thank you.

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

Hon. Philemon Ojuok: Thank you Hon. Speaker. I wanted to remind you that I am the Deputy Minority Chief Whip and in that regard, I am senior. I just remembered that maybe in your wisdom you wanted me to speak last.

(Loud laughter)

The Speaker (Hon. Oraro): That is what I wanted to tell you so that you can summarize.

Deputy Minority Whip (Hon. Ojuok): Thank you Hon. Speaker. I believe that, Hon. Steve Owiti has really captured it very well. My greatest concern is that this Hon. House can invite a CEC Member and not honour Committee invitations. Somebody decides that they will not even dignify that invitation with a response. It makes this House look so useless and so toothless. This is something that we cannot be able to condone. There are certain things that even if somebody is your friend; if they make such kind of mistakes of not protecting their jobs then join us in sending such people home.

Hon. Speaker you will find that when you share your frustrations especially when you are put under a lot of pressure with your constituents, they tell you and they clearly indicate to you that Members of the County Assembly have given them all the powers. In fact one told me that we are the only people who have given powers to send anybody home. When you tell them that this person cannot work they ask what you are still doing with them. When you are given those kind of powers there is no excuse.

Mr. Speaker, we cannot get into a situation where we invite people and they don't come into this particular place. I have also taken notice with issues to do with the Budget, the CIDP and the PFM Act which are taken so casually. There are people who even believe that we can approve a Budget Estimates here and they can write another one in their own ways. That is the reason why somebody can decide that nobody has asked for a generator and they take it somewhere. When you call them they will not even dignify it with a response. I think this Assembly should take the first step to indicate with an example that kind of cannot be condoned in this House. Thank you.

The Speaker (Hon. Oraro): Yes Hon. Olang'o.

Hon. Olang'o: Thank you Mr. Speaker. I wish to call the mover to reply.

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

Hon. Samo: Mr. Speaker. I was given the opportunity to reply as the Vice Chairperson.

The Speaker (Hon. Oraro): Proceed.

Hon. Samo: Mr. Speaker, the Hon. Members have robustly contributed towards the adoption of this report. As I conclude on this matter, I did raise before you but at that time I noticed your attention had briefly been taken away. The Hon. Members have really captured the mood of what we need to do as an Assembly. I have looked into other Assemblies and you find the kind of powers. I sometimes ask myself if we are a different Assembly as compared to others. The people back home will ask us these questions and when you tell them that this cannot happen then they laugh at us because they believe and they see and it is stipulated in the Constitution that we have the powers.

Mr. Speaker, as I am talking to you today, some two roads were being done in my ward in support of this. The tendering process took place, they were awarded to contractors and they just dug and left. Now the roads are just impassable. I am using this analogy because when I go back to the ground they can't even think about department or whoever is in the Department of Roads. We visited Jaramogi and they said that a Standby Generator had been bought and they never requested for it, they have never used it. I have the pictures here which details how the generator contains a lot of dust. Over 6 million shillings is gone under the drain. In fact, we are currently dealing with a weighty matter of the Moi Stadium with an amount of Kshs 130 million and another Kshs 7 million appropriated by this House to it. There is no clear indications on how these funds are being used.

Mr. Speaker, as I conclude on this matter, we have the opportunity to exercise our powers as it has been bestowed to us by the Constitution of Kenya by first summoning these people and making a conclusion towards the same and the officer be charged. The time is now for us. Thank you.

The Speaker (Hon. Oraro): Thank you Hon. Members. Now that the report from the Committee on Implementation on the Procurement of Standby Automatic Generator Tender No. CGK/FIN/CP/2018/2019/04 by the County Government of Kisumu, presented by the Chairperson, Hon. Agolla, seconded and discussed by Hon. Members, I therefore want to put a question on the adoption of the same with the recommendations therein?

(Question put and agreed to)

The Speaker (Hon. Oraro): Hon. Members, the report from the Committee on Implementation on the Procurement of Standby Automatic Generator Tender No. CGK/FIN/CP/2018/2019/04 by the County Government of Kisumu is hereby adopted today Wednesday 30th September 2020 at 1657 hours with the recommendations therein.

Hon. Members, I do direct that the recommendations be communicated to the relevant institutions and I want to say that on 14th October, 2020 the Chairperson will be given a report on the Status of implementation of the said report by the committee of Implementation.

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 1stOctober, 2020 at 2.30 p.m.

(House rose at 5.04 p.m.)

Addendum

Hansard Team

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