

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

SECOND ASSEMBLY – FIFTH SESSION

Thursday, 11th November, 2021

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): Good afternoon Hon. Members, I want to cite the provisions of Standing Orders No. 32 (2) as regards to quorum. I therefore direct that the quorum bell be rung for the first five minutes.

(Quorum bell is rung for five minutes)

The Speaker (Hon. Oraro): Hon. Members, I have noticed a Member seated in the seat of the Leader of Majority, is that you Hon. Khan?

The Speaker (Hon. Oraro): Please confirm if we have the required quorum.

Acting Leader of Majority (Hon. Khan): Thank you Mr. Speaker. You have indeed noted correctly, it is indeed Hon. Aslam Khan at the moment the Acting Leader of Majority. Mr. Speaker, I confirm that there is quorum. Thank you.

The Speaker (Hon. Oraro): Clerk, please take us through the order of the day.

The Speaker (Hon. Oraro): Next order!!

PAPER LAID

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

Acting Leader of Majority (Hon. Khan): Thank you Mr. Speaker. On behalf of the Leader of Majority Hon. Kenneth Onyango I would like to table the following motion for consideration. Pursuant to the provision of County Assembly of Kisumu Standing orders No. 26 (4), I wish to table today, Thursday, 11th November, 2021 a Motion for the Extension of the County Assembly Calendar until Wednesday, 08th December, 2021. Thank you.

(The Acting Leader of Majority lays the papers for consideration)

The Speaker (Hon. Oraro): Hon. Members, I confirm receipt of the motion by the Leader of Majority proposing the Extension of the Assembly Calendar until Wednesday, 08th December, 2021 and I commit this motion to the Select Committee of House Business for purposes of scheduling it for debate. Thank you.

The Speaker (Hon. Oraro): Next order!!

NOTICE OF MOTION

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

Acting Leader of Majority (Hon. Khan): Thank you Mr. Speaker. On behalf of the Leader of Majority Hon. Kenneth Onyango. Pursuant to the provision of County Assembly of Kisumu Standing Orders No. 45 (1) I wish to give a Notice of Motion for the Extension of the County Assembly Calendar until Wednesday, 08th December, 2021. Thank you.

The Speaker (Hon. Oraro): Next order!!

STATEMENTS

The Speaker (Hon. Oraro): Hon. Members, it is Statement Hour.

The Speaker (Hon. Oraro): Next order!!

MOTION

JOINT COMMITTEES OF HEALTH, HOUSING AND SANITATION AND LABOUR AND
SOCIAL WELFARE PROGRESS REPORT ON THE MATTER OF PAYMENT OF
ARREARS OWED TO COMMUNITY HEALTH WORKERS AND SUBSEQUENT
REMUNERATION OF THEIR STIPENDS FOR THE FIRST QUARTER OF FINANCIAL
YEAR 2021/2022.

BY

HON. VINCENT JAGONGO

(JOINT COMMITTEE CHAIRPERSON)

The Speaker (Hon. Oraro): Hon. Jagongo, Joint Committee Chairperson.

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

Hon. Arao: Thank you Mr. Speaker. I seek your indulgence that you kindly allow me to present this Joint Committee Report on behalf of the Joint Chairperson.

The Speaker (Hon. Oraro): Hon. Members, has he requested you to move the report on his behalf?

Hon. Arao: Mr. Speaker, yes he obligated me to do so.

The Speaker (Hon. Oraro): Please proceed.

Hon. Arao: Thank you Mr. Speaker. Mr. Speaker and Hon. Members, PURSUANT to provisions of the Kisumu County Assembly Standing Orders No. 45, Hon. Rashid Miruka, the MCA for North Nyakach brought a motion on the matter of payment of arrears owed to Community Health Workers and subsequent remuneration of their stipends for the first quarter of FY 2021/2022 before this Honourable House in its sitting of Wednesday 13th October, 2021 at 0900hrs (See annexure 1).

The motion was debated on but the House however felt there was need to probe further the attendant matters owing to its weight and considering the fact that it was a concern not only to Nyakach Sub County but Kisumu County as a whole and called for formation of joint committee of Health, Housing and Sanitation, and Labour and Social Welfare to look into the matter.

PURSUANT to the provisions of the Kisumu County Assembly Standing Orders No. 185, Hon Speaker approved the joint Committee of Health, Housing and Sanitation and, Labour and Social Welfare on Wednesday 13th October 2021 and called to action to investigate on the grievances contained in the motion.

Committee composition. The Committee is constituted as follows;

Members

- | | | |
|-------------------------|---|------------------|
| 1. Hon Vincent Jagongo | - | Chairperson |
| 2. Hon Benny Pete Oiko | - | Vice Chairperson |
| 3. Hon John Atieno | - | Member |
| 4. Hon Seth Okumu | - | Member |
| 5. Hon Rashid Miruka | - | Member |
| 6. Hon Jennipher Obonyo | - | Member |
| 7. Hon Maurine Otiang' | - | Member |
| 8. Hon Consolata Ollows | - | Member |

9. Hon Julius Genga	-	Member
10. Hon Pst. David Arao	-	Member
11. Hon Pamela Odhiambo	-	Member
12. Hon Joachim Oketch	-	Member
13. Hon Florence Olang'o	-	Member
14. Hon Habil Nyasuna	-	Member
15. Hon Gard Olima	-	Member
16. Hon Jacktone Ogendo	-	Member
17. Hon Vitalis Otura	-	Member
18. Hon Nancy Owiti	-	Member
19. Hon Olga Aoko	-	Member
20. Hon Priscah Misachi	-	Member
21. Hon Samson Ameso	-	Member
22. Hon Inviolata Adhiambo	-	Member
23. Hon Caren Muga	-	Member
24. Hon Samuel Dede	-	Member

Secretariat

1. Ms. Angelyne Obonyo	-	Clerk Assistant HH&S
2. Ms. Elizabeth Achieng'	-	Clerk Assistant L&SW
3. Ms. Jacklyne Otieno	-	Hansard reporter L&SW
4. Mr. Edwin Odanga	-	Hansard reporter HH&S
5. Mr. Abraham Odegi	-	Sergeant-at-arms HH&S
6. Ms. Risper Waya	-	Sergeant-at-arms L&SW
7. Mr. Dominic Muinde	-	Legal Counsel L&SW
8. Mr. Bill Otieno	-	Legal Counsel HH&S
9. Ms. Macreen Lajah	-	Secretariat HH&S
10. Ms. Lilian Nyamita	-	Secretariat HH&S

Committee Mandate

Mr. Speaker and Honourable Members. The Committee was mandated to investigate and report back to the House on the prayers as highlighted on the Motion and as the title states; *Matter of payment of arrears owed to community health workers and subsequent remuneration of their stipends for the first quarter of FY 2021/2022.*

LEGAL BASIS

The Committee in the process of this investigation was guided by the following statutory documents

1. The Kenyan Constitution
2. Labour Relations Act
3. Employment Act Cap 226
4. County Governments Act
5. County Assembly Standing Orders

ACKNOWLEDGMENT

The Committee wishes to thank the Speaker and the Clerk of the County Assembly of Kisumu for the goodwill extended to the Committee that enabled it to fulfill its mandate.

The committee also recognizes and appreciates the role and contribution of its members and secretariat who have been instrumental throughout the whole process culminating in the production of this report.

MATTER OF PAYMENT OF ARREARS OWED TO COMMUNITY HEALTH WORKERS

Mr. Speaker and Hon. Members. As was earlier mentioned in this report, a motion by Hon Rashid Miruka was committed to a joint Committee of Health, Housing and Sanitation and, Labour and Social Welfare to carry out intensive investigation on the matters of contention therein.

The Committee in accordance with Article 185 of the Constitution of Kenya read together with section 8 of the County Government's Act 2012 communicated to the County Executive Committee Member (CECM) for Finance and Economic Planning through the County Secretary vide a letter referenced CAK/CGK/ADMIN/VOL.VI/10/21 dated 14th October, 2021 requesting a detailed response to the items on **(See annexure 2)**.

The Office of the CEC Member for Finance and Economic Planning however DID NOT heed to the Committee's communication.

The Committee in its sitting of Thursday 21st October, 2021 held at 11:00am, deliberated and resolved to do a reminder to the CEC Member in question.

On 25th October, 2021 the Committee again communicated a reminder to the CEC Member for Finance and Economic Planning through the County Secretary and copied the same to the department of Health Services and Sanitation vide a letter referenced CAK/CGK/CS/VOL.VI/1/21 (See annexure 3).

The CECM for Finance and Economic Planning responded vide a letter referenced KC/FIN/C.ASSEMBLY VOL.III/176 (See annexure 4) claiming that it is the health facilities that pay CHWs and that his department only makes transfers to health facilities in payments processed by the Health department.

FINDINGS

Mr. Speaker and Hon. Members,

1. The Standing Orders No. 174 gives Committees similar powers and privileges bestowed on County Assembly by the Constitution i.e. power to summon witnesses, *receive evidence and request for and receive Papers and documents from the Government and the Public*. The CECM for Finance acted against this provision by failing to provide evidence or rather supporting documents of transfers they claim to make to the health facilities despite our letter to them being very clear on the same.
2. If at all claims by the department of Finance and Economic Planning that records of CHWS, including their payments are held and maintained by the department of Health Services and Sanitation, then the department of Health has contravened the provisions article 185(3) of the Constitution, section 8 of the County Government's Act which gives the County Assembly the authority to oversight the county executive committee, and Standing Orders No. 174 by neither acknowledging nor responding to the letter copied its department. By so doing, the department has denied the Committee and the Assembly its role to oversight.

RECOMMENDATION

Mr. Speaker and Hon. Members. The Committee thus has the following recommendations;

1. Section 39 of the County Government Act, which talks about accountability of members of the executive committee, gives a Committee authority to ask a member of the executive committee to attend or appear before it and answer any question relating to the member's responsibilities. It is clear that the joint Committee's attempt to access information to report to this House as far as the matter at hand is concerned has stalled due to the Executive Arm of the Government's seemingly insistent lack of cooperation. Therefore, the Committee thus requests for two (2) more weeks and recommends that the House, through its authority in tandem with the mentioned legal document to invite/sermon these departments for questioning.

It is now my pleasure to recommend this progress report by the joint Committee on Health, Housing and Sanitation and Labour and Social Welfare on the matter of payment of arrears owed to Community Health Workers and subsequent remuneration of their stipends for the first quarter of FY 2021/2022 before this Honorable House for further consideration. Please allow me to call upon Hon. Judith Ogaga to second. Thank you.

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

Hon. Ogaga: (Bows)

The Speaker (Hon. Oraro): Hon. Members, now that the Progress Report from the Joint Committees of Health and Sanitation and Labour and Social Welfare on the matter of Payment of Arrears owed to Community Health Workers and subsequent Remuneration of their Stipends for the First Quarter of Financial Year 2021/2022....

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

Hon. Arao: On a Point of Order. Thank you Mr. Speaker. I did a mistake and please allow me to call upon Hon. Ameso to second this report. Thank you.

The Speaker (Hon. Oraro): Hon. Member, how many times do you want this report to be seconded?

Hon. Arao: Mr. Speaker, it was a slip of the tongue.

The Speaker (Hon. Oraro): But I have already noticed Hon. Ogaga who has seconded this report.

(Laughters)

Hon. Arao: Mr. Speaker, she is not a Member of either of these Standing Committees and I stated that it was a slip of the tongue and I have noticed a Member of this Joint Committees who is Hon. Ameso. Kindly pardon me.

The Speaker (Hon. Oraro): Hon. Arao, you called upon Hon. Ogaga to second and I saw her seconding this report.

The Speaker (Hon. Oraro): Much obliged.

The Speaker (Hon. Oraro): So, Hon. Members, now that the Progress Report from the Joint Committees of Health and Sanitation and Labour and Social Welfare on the matter of Payment of Arrears owed to Community Health Workers and subsequent Remuneration of their Stipends for the First Quarter of Financial Year 2021/2022 has been moved and seconded.

Hon. Members, I now want to propose a question that the Joint Committees Report on Committees of Health and Sanitation and Labour and Social Welfare on the matter of Payment of Arrears owed to Community Health Workers and subsequent Remuneration of their Stipends for the First Quarter of Financial Year 2021/2022 is open for debate.

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

Acting Leader of Majority (Hon. Khan): Thank you Mr. Speaker. I arise to support this report and implore this House to put its foot on the ground to ensure that whatever this House resolves is adhered to because it is of great significance to this County.

Mr. Speaker, from the report you can see that it did not actually give us what the Hon. Member from Nyakach had sought for about the Stipends of the Community Health Workers but, because of reasons given herein. This is because, if you look at the report on page seven, Committees on several occasions that the CEC for Finance and Economic Planning was invited to appear before this Joint and he deliberately refused to appear before this Joint Committee giving flimsy grounds by stating that the CHWs are Health related matters and did not give a comprehensive report or a proper document for the purposes of showing that the funds were transferred to the Health Department to settle these matters.

Mr. Speaker and the Hon. House at large, as you may be aware that refusal to give information and especially when we have a right to information as prescribed in the provisions of Article 35 of the Constitution of Kenya and through an Act that was approved in this House sometimes back denies the core value and roles that the Hon. Members of this House are supposed to play notably; Representation, Legislation and more importantly Oversight.

Mr. Speaker, in this matter, is an issue of Oversight. When it comes to representation you will find that some Hon. Members of our County are demanding that monies that they are owed and Hon. Member initiates a Motion in this regard on their behalf which is representation. Therefore, when you deny this House and this cadre the information that is required pertaining to finding out exactly as to whether they were paid or not is a serious matter.

Mr. Speaker, as you might see pursuant to the provision of Standing Orders No. 174, the Committee has similar powers and privileges bestowed on County Assemblies by the Constitution of Kenya, which is the power to summon witnesses and receive evidences requested for and receive papers and documents from the government and the public. It explicitly states that, the CEC for Finance and Economic Planning has acted against these provisions by failure to provide these information that was required from him. Mr. Speaker, if you look at the Joint Committee's recommendations, though they are not very strong but, I believe that we need to do that through this House and through your Chair and the indulgence and especially the powers conferred upon you using the provisions of the Constitution of Kenya 2010, County Government Act of 2012, the Standing Orders and other legal statutes to take stern action which I believe will bear some fruits. Mr. Speaker, this Joint Committee which has been convening its sittings is being paid by the taxpayer's money to make reasonable, actual and truthful findings so that the grievances that have been brought to this August House are fully complied with to the satisfactory of the petitioners.

Otherwise, I support this and state that it is the right time that we ask and act to ensure that any other member, irrespective of their social standings either in the County Executive or this House, but which falls within our ambit or purview should be held responsible for failure to give such information that may be required from time to time. Thank you.

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

Hon. Ogaga: Thank you Mr. Speaker. It is never good to leave in the park because you have no control over it. Now, in this case, severally we have encountered challenges while performing our duties or even working on a report or giving a response to the House because of difficulty in accessing information from the County Executive. Mr. Speaker, as you can see now, the same is happening with this Joint Committee Report.

Mr. Speaker, my humble plea as I support the Progress Report, as a House we need to stamp our authority by exerting pressure through your leadership to the County Executive. They need to be aware that we are not witch-hunting but keeping track of what is happening in the County Government of Kisumu and also ensuring that they are doing things the right way that is, through oversight. So, we are not doing anything weird or any harm but, the County Executive should always be willing to furnish us with information as this will enable us perform our duties when we request for it. Mr. Speaker, therefore, kindly assist your Members by letting the County Executive know that we need this information and any time we knock at the doors of their offices for information, they should be willing to provide it. Mr. Speaker, unless that information is not there meaning they don't work so, we do a report in that manner. Thank you.

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

Hon. Otura: Thank you Mr. Speaker. I rise here in concurrence with this progress report. As a Member of this Joint Committee I must say that we have really endured to ensure that this report is brought to this House as is always expected of us.

Mr. Speaker, if you look at the findings of the Joint Committee, they have indicated that there is foul play. The other arm of the government is reluctant to adhere to its obligations. As a matter of fact, the County Executive has been playing a cat and mouse game between the Department and this Joint Committee. Mr. Speaker, the evidence is contained herein as witnessed by the number of communication that have been done to the Department. The flow of communication as has been expected is done by the Committee secretariat. Mr. Speaker, amazingly, the CECM has deliberately refused to honour Committee invites.

Mr. Speaker, the Committee has made recommendations which should be taken seriously. It is cited that pursuant to the provisions of section 39 of the County Government Act of 2012, these Departments are accountable and the request made by Hon. Miruka, was a very humble one. Mr. Speaker, these CHVs really sacrificed to assist the public achieve their desires as a community. Mr. Speaker, through them, the community survives. Through these CHVs some of us saw the light of the day to be here today. Mr. Speaker, during the past times, they had nothing, but what we are offering them is a stipend. Why is it that a department of a County Government fails to pay them? Now that, it has been brought to the fore so that we can interrogate and get to know more and why, just to know why because probably they have a genuine reason for not releasing these funds, but, they fail to do that.

Mr. Speaker, I believe that these recommendations herein should be taken seriously and the department should help this Joint Committee give a report to this House. Mr. Speaker, this is just but a progress report and we need to bring an elaborate report as to why the Community Health Volunteers (CHVs) have not been paid their dues for the first quarter of this financial year and we are in the second quarter again without their dues being paid. Mr. Speaker, I support the Joint Committee recommendations and the report as was read in the House. Thank you.

The Speaker (Hon. Oraro): Hon. Members, as you are all aware that this is a Progress Report and I was expecting some robust recommendations that the Joint Committee would have wanted the House to make a resolution on. The way it is being discussed it's like it is a final report but I am seeing a progress report. As you are all aware for progress reports, we don't put a question.

Hon. Members, I want to direct that we give this Joint Committee a further fourteen days to give us a comprehensive report on this matters that have been canvassed with clear prayers on what they want the House to make resolutions on. This is because we cannot make resolutions on such flimsy recommendations because they are too general. It is not clear what the Joint Committee wants the House to resolve on. So, Hon. Arao, you were presenting on behalf of this Joint Committee you have to ensure that within fourteen days we have a conclusive report with clear prayers on what you want the House to resolve. Thank you.

The Speaker (Hon. Oraro): Next order!!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business to transact, the House stands adjourned to today Tuesday, 16th November, 2021 at 2.30 p.m.

(House rose at 15:10 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Jesca Otieno – Hansard Reporter

Vallery Achieng’ – Hansard Reporter