

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FIFTH SESSION

Tuesday, 21st September, 2021

House met in the Main Chamber at 2:30 p.m.

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

PRAYERS

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

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

MOTION

THE STANDING COMMITTEE OF PLANNING, INDUSTRIALIZATION AND ICT
REPORT ON THE STATEMENT SOUGHT BY HON. CAREN MUGA REGARDING THE
DEMOLITION OF KISUMU BOYS HIGH SCHOOL PERIMETER WALL.

BY

HON. GEORGE OLWAL

CHAIRPERSON, PLANNING, INDUSTRIALIZATION AND ICT COMMITTEE

The Temporary Speaker (Hon. Adhiambo): Hon. George Olwal.

Hon. Olwal: Thank you Madam Speaker and Hon. Members. Pursuant to the provisions of Standing Order No. 41(2) (b) of the County Assembly Standing Orders, Hon. Caren Muga raised a Statement (See Annex 1) in this House regarding the demolition of Kisumu Boys High School Perimeter wall.

In accordance with Article 185 of the Constitution of Kenya, 2010, Section 8 of the County Government's Act, 2012 read together with the County Assembly of Kisumu Standing Order No. 193, the Hon. Speaker instructed the Committee on Planning, Industrialization and ICT to make an inquiry, investigate and cause a report on the following in regard to this matter;

- i. Whoever was responsible for the demolitions
- ii. Whether a notice was given before the demolition

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Mr. Speaker and Hon. Members. The Sectoral Committee on Planning, Industrialization and ICT is established under Standing Order No. 193 of the Kisumu County Assembly Standing Orders, whose mandate, pursuant to the Standing Orders No. 193 (5) is as follows;

1. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments
2. study the programme and policy objectives of departments and the effectiveness of the implementation
3. study and review all County legislation referred to it
4. study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives
5. investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly
6. to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 187 (Committee on Appointments)
7. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Composition

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

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
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 - Senior Clerk Assistant
2. Mr. Austine Ochieng - Committee Clerk
3. Mr. Patrick Okoyo - Hansard Reporter
4. Mr. Bill Omondi - Legal Advisor
4. Mr. Kennedy Okise - Sergeant-at-Arms

ACKNOWLEDGEMENTS

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

The Committee also appreciates invaluable support from the offices of the Speaker and Clerk of the County Assembly for providing conducive atmosphere to prepare this report. To our Clerks and the technical staff who tirelessly worked through to make this exercise a success, I applaud you.

It is now my humble desire and wish to hereby submit this report to the House for consideration on behalf of the Committee on Planning, Industrialization and ICT.

COMMITTEE INVESTIGATIONS

Mr. Speaker and Hon. Members, the Committee was given a timeline of one week to carry out this investigation and report back to the House. Consequently, the Committee Clerk came up with a draft work plan to guide in carrying out this investigation.

WORK PLAN TO HELP CARRY OUT INVESTIGATIONS ON THE DEMOLITION OF KISUMU BOYS PERIMETER WALL

Date	Activity	Time	Responsible person(s)
25/08/2021	<ul style="list-style-type: none"> ➤ Site Visit to Kisumu Boys School ➤ Meeting with the Kisumu Boys School Board 	0900hrs to 1100hrs	Chairperson Committee members Committee Secretariat
25/08/2021	<ul style="list-style-type: none"> ➤ Courtesy call to the Central Police Station 	1200hrs to 1230hrs.	Chairperson Committee members Committee Secretariat
25/08/2021	<ul style="list-style-type: none"> ➤ Courtesy Call to the City Manager 	1300hrs to 1400hrs	Chairperson Committee members Committee Secretariat
26/08/2021	<ul style="list-style-type: none"> ➤ Coming up with a draft report from the deliberations with the concerned parties 		Committee Secretariat
02/09/2021	<ul style="list-style-type: none"> ➤ Deliberation on the report 		Committee members Secretariat

	➤ Adoption of the report		
--	--------------------------	--	--

The Committee adopted the above work plan before the investigations on this matter began.

Mr. Speaker and Hon. Members,

On 25th August 2021, the Committee conducted site visit within the precincts of the school and members had a view of the demolished section. Thereafter, a joint meeting with the school board was held in the principal's office. The following Findings/Observations were made;

- a) The Committee was informed that a section of the wall had fallen before the demolition was done. A life was lost in the event.
- b) The School Management believes that this section of the wall collapsed after being weakened by the activities of both the County Government and the traders operating along the wall.
- c) The School Alumni Association had a plan of erecting a new wall. This plan had been approved by the County Government. This was echoed by the School legal counsel, Mr. James Mwamu.
- d) The demolition was done at around 11pm by a bull dozer belonging to the County Government. This was stated by the School Principal and his deputy who claimed to be eye witnesses.
- e) Both the School Principal and his deputy strained the students from confronting the people who were doing the demolition. The students unanimously asked the teachers to declare a war between them and the demolishing team. The teachers declined.
- f) The demolition disregarded the safety of the students.
- g) The team that was carrying out the exercise was protected by the police in a land rover
- h) One, Corporal Ochieng was mentioned
- i) Mr. Obuogo, the school principal reported the incident to the police and requested that the school compound be secured. OB number was however not provided.
- j) After the demolition was done, the school board made a resolution to seal the demolished part using iron sheets. The decision was approved by the National Construction Authority. This resolution was made after street boys started entering the school compound, endangering the lives of the students.
- k) There was no notice (written or unwritten) of the intention to bring down the wall.
- l) Similarly, there was no notice or information from the National Construction Authority to communicate the need for demolition of the wall for any reason.
- m) There had been informal requests by the school to the County Government to have the hawkers along the School perimeter wall relocated (See Annex 2- Minutes)

Mr. Speaker and Hon. Members, the Committee proceeded to Central Police Station with the aim of inquiring whether their officers provided security services/protection during the demolition exercise. In a meeting with the Chief Inspector, Paul Muturi, the following verbal submissions were noted;

- a) He denied the allegation of the police providing security to the team that was carrying out the demolition was denied.
- b) The Chief inspector informed the Committee that the Kisumu Boys Management had reported the incident.

Mr. Speaker and Hon. Members, the last party that this Committee paid a courtesy call to was the City Manager. (See Minutes attached- Annex 3)

In a meeting that lasted for thirty minutes, the following are the Observations/Findings from the deliberations;

- a) The City Manager confirmed that he did the demolitions but made the Committee understand that the school wall had shown serious signs of weakness and just before the demolitions, the wall had collapsed and a life was claimed.
- b) The City Manager also confirmed before the Committee that he did not give any notice on the same as he considered the remaining part of the wall a security threat to the traders and everybody around the wall.
- c) In his written response(Annex 4), the City Manager outlined the following;
- d) That the Kisumu City Board and the City Management has the key mandate of ensuring safety to all residents of the City.
- e) That on 24th August, 2021 at around 7.30am, the City got reports that a section of the Kisumu Boys' School Perimeter wall (approximately 100 metres) had collapsed and killed a woman named Tuluphena Ondigo Chitwa and critically injured her daughter Dorine Norah Atieno who she was escorting to school. A post mortem report revealed that the woman died on the spot after a 9 feet block hit her head.
- f) That a multi-urgency response team comprising of the police and the City Management rushed to the scene to access the situation and to avert more injuries or even death that may occur.
- g) The technical team upon inspection and evaluation of the perimeter fence concluded that the best option was to bring down the entire wall and this was based on the following reasons;
 - a) The remaining part of the wall was equally weak and considering that the place is a high traffic area especially in the mornings and evenings
 - b) The wall was structurally disintegrating based on the duration and misuse by the shoe vendors who conducted their trade along the wall.

- c) The wall was not supported by any column hence was a ticking time bomb.

SUMMARY OF COMMITTEE FINDINGS

- a) There had been continuous Structural disintegration of the school perimeter wall
- b) Prior to the demolition, a section of the School wall had collapsed and a life was claimed.
- c) The remaining part of the wall was equally weak and considering that the place is a high traffic area especially in the mornings and evenings
- d) The demolition was later done by the City Manager, County Government of Kisumu
- e) The wall was not supported by any column. This enhanced the level of weakness
- f) The City Manager did not give any notice on the demolition of the school wall
- g) The School principal reported the incident to the Police Station and requested that the school compound be protected.
- h) The demolition was done by the City Manager and there was no notice given to the institution.
- i) The wall was not supported by any column hence was a ticking time bomb.

COMMITTEE RECOMMENDATIONS

Mr. Speaker and Hon. Members,

- a) The Committee understands the security threat that the remaining part of the wall posed to the public especially the traders operating around it. However, it would have been prudent for the City Manager to serve the school with a notice before demolishing. The Committee therefore recommends that going forward, the City Manager must issue notices before carrying out demolitions.
- b) The Committee recommends for a waiver on the procedural expenses that will be incurred by the school when they will be erecting a new wall.
- c) That the City Manager to work with relevant stakeholders to ensure that all traders who operate along the school perimeter wall are relocated to the readily available markets. This will mean less activities around the perimeter wall.

CONCLUSION

Mr. Speaker and Hon. Members, the above findings have indicated that the demolition was done by the City Manager after a section of the wall collapsed. The Committee further established that the wall was weakening each day due to the numerous activities going on around the wall. It would therefore be important for the City Manager to work in conjunction with other stakeholders to relocate the traders operating around the wall to readily available markets. Thank you Mr. Speaker and Hon. Members, May I call upon Hon. Aslam Khan to second.

The Temporary Speaker (Hon. Inviolata): Proceed Hon. Khan.

Hon. Khan: Thank you Madam Speaker. I rise to support the report with the following remarks. There are two main issues that came up in this Statement. One, who conducted the demolition which has been adequately explained in the report. Two, was the notice given for demolition and it has come out very clear that it wasn't. That has been explained in the report by the City Manager. This matter is serious and especially during this time of the rainy season.

The traders are at risk because the wall was built without the column. I believe this report will also be an eye opener to the responsible department to ensure that these areas are safe for our people. I support.

The Temporary Speaker (Hon. Inviolata): Honourable Members, the Planning, Industrialization and ICT Committee report on the Statement sought by Hon. Caren Muga regarding the Demolition of the Kisumu Boys High School Perimeter Wall has been moved by Hon. George Olwal and seconded by Hon. Aslam Khan. I therefore, want to open it for debate.

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

Hon. Ogutu: Thank you Madam Speaker. I rise to support this report. I reacted to this matter when it first came to the House. A life was lost. It is the City Manager that gave the instruction that the remaining part of the wall be brought down for the safety of the members of the public. We can confirm to you that this wall was not properly built.

The Temporary Speaker (Hon. Inviolata): What is it Hon. Caren Muga?

Hon. Muga: *On a Point of Information.* If you go to page 11 of this report, you will see a photo of the Members who went to Kisumu Boys High School. I can confirm to you that the wall was built using columns.

Hon. Ogutu: Madam Speaker, there seems to be a misunderstanding. The columns were there but they are weak.

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Prisca Misachi.

Chief Whip (Hon. Misachi): Thank you Madam Speaker. Columns will always remain when the wall is going down. We went to the scene and I couldn't find them. The Principal couldn't explain why the wall was built without column. Let the Members not mislead the House.

The Temporary Speaker (Hon. Inviolata): Hon. Arao.

Hon. Arao: Madam Speaker, I want to inform the House that this should be treated as a calamity because nobody brought this wall down. Thank you.

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

Hon. Ogotu: Thank you Madam Speaker. By all means we can call what we saw there as columns. The Police Officers from Central Police Station were there to provide security during the said demolition. We also inquired whether the Principal reported the matter to the police but unfortunately it never happened. The only part of the story that was captured is the deaths. I want to request this House to compel the City Board to construct the wall for the school. That is my take. Thank you.

The Temporary Speaker (Hon. Inviolata): Hon. Paul Okiri.

Hon. Okiri: Thank you Madam Speaker. I rise to support this report and I want to dissect this report into two parts. First, we must remain focused on the prayers of the Statement. It doesn't matter whether you are a Board Member, Alumnae or having any other position. The County Government did demolish the wall because it was threat to other people's lives. The responsibility of the government is to protect its people.

You are all aware of the kind of activities that are taking place around that school. This also must have contributed to the collapse of the wall. We are going to invite the institution's board to come and explain to us what they know about the construction of that wall. It is true that the County Government did not give the notice to avoid more deaths and injuries. It is unfortunate that the deceased families have not ...

The Temporary Speaker (Hon. Inviolata): What is it Hon. Ogotu?

Hon. Ogotu: Thank you Madam Speaker. Hon. Okiri is a Senior Member of this House. He knows the time that the wall was brought down. The fact that this wall was brought down at wee hours of the night must have been tormenting to the students. Hon. Okiri should therefore consider the safety of the students who were in school during this tragedy. Most of them were Form Ones who recently joined the school. They didn't know where to run to when threat came their way. Mr. Speaker, when we are protecting our people, we should also consider the lives of these young boys of Kisumu Boys' High School, thank you.

The Temporary Speaker (Hon. Inviolata): Thank you, proceed Hon. Paul Okiri.

Hon. Okiri: *(On a point of information):* Thank you Madam Speaker, the Hon. Ogotu is contradicting himself although he is considered as one of the great debaters in this House. It is quite prudent to tell someone on the stand they got on the other person's report or motion based on these. Nevertheless, I want to inform the House that the demolition was done after the death occurred. So, the County Government of Kisumu was preventing further deaths by doing so. I beg to support this report as I sit down, thank you.

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

Hon. Okumu: Thank you Madam Speaker, I arise to support this report based on two things; First, the author and the recommendations of this report. The author of this report happens to be a board member of Kisumu Boys High School, and she cannot use the Assembly to cleanse their irresponsibility as a board. Their main duty is to ensure that the school administration...

Hon. Okiri: A point of order Madam Speaker

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Okiri

Hon. Okiri: (*On a point of order*) I am standing on Standing order No. 89, which requires Statements of Facts, and I would want evidence to show that the author of the statement is a member of the school board or not. If it is so then, she needs not to be in the statement because of conflict of interest, which she should have mentioned then we proceed, thank you.

(Feet thumping)

The Temporary Speaker (Hon. Inviolata): Hon. Carren Muga

Hon. Muga: Thank you Madam Speaker, I fail to understand this House because when you talk about conflict of interest, it means that that is something that I did for my own benefit. However, in this case I was concerned about the security of the minors in Kisumu Boys High School and also to know whether the school's right was violated.

The Temporary Speaker (Hon. Inviolata): Yes, Majority Whip, Hon. Priscah Misachi.

Chief Whip (Hon. Misachi): Madam Speaker, the honorable thing for Hon. Muga to do is to declare interest and leave the House.

(Feet thumping)

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Carren Muga are you a board member of Kisumu Boys' High School?

Hon. Okiri: In fact, that is exactly what she should tell us.

(Feet thumping)

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Beatrice Pamela

Hon. Beatrice Pamela: Madam Speaker, I want to inform the Hon. Member that he seems to have forgotten one of our legislative roles as MCAs and especially that one of representation. So, the Hon. Carren Muga is right in representing the issue that is affecting Kisumu Boys' High School.

(Feet thumping and loud consultations)

The Temporary Speaker (Hon. Inviolata): Order! Honorable Members, and Hon. Paul Okiri you need to provide information that shows that Hon. Muga is a board member at Kisumu Boys' High school. However, if you don't have it at the moment then we will have to proceed. I believe you will have your time to speak. Meanwhile, let me allow Hon. Seth Okumu to finish up his submissions.

Hon. Okumu: Madam Speaker thank you once again. As I had indicated earlier that my support for this report is based on two things and one being on the author of the statement. Like other members have agreed, it is true that the author has a conflict of interest. They have failed as a board to provide the school with a good fence that withstands the required structural dimensions, and they want to blame the County through their board member who happens to be a member of this Assembly. That, it be seen as the responsibility of the County government to provide security to that school.

(Loud consultation)

The Temporary Speaker (Hon. Inviolata): Hon. Carren Muga you are being disorderly

Hon. Okumu: Madam Speaker, the said wall was brought down after it killed somebody. This is a school in which the board members meet occasionally and one the things they should be doing is to inspect these structures. We will not allow them to bring their blame right on us after failing...

The Temporary Speaker (Hon. Inviolata): Hon. Seth Okumu, you have insisted that Hon. Muga is a board member at Kisumu Boys' High School, so, can you provide more information to confirm your claim?

Hon. Okumu: Madam Speaker, if she denies, I will go to the school tomorrow to confirm my claim, but if it is true that she is indeed a member of the school's board, then she will do the honorable thing of resigning.

Hon. Okiri: A point of information Madam Speaker

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Paul Okiri

Hon. Okiri: *(On a point of information)* Madam Speaker, I just want to enlighten and challenge Hon. Muga to be in the know on the consequences of misleading the House. If I can refer you to page 15 of the report denotes on a photo that; Hon. Linet Muga, a board member articulating her views. Madam Speaker, kindly give your directive on that and we see about it.

(Laughter)

The Temporary Speaker (Hon. Inviolata): Yes, Hon. Okumu

Hon. Okumu: Thank you so much Hon. Paul Okiri for providing that information. I hadn't read that part of the report and the photo clearly proves my claim hence no doubt about it. Consequently, the City Manager was within the Law to bring down the wall. Madam Speaker, the Health Act Cap 242, section 117, if you allow me it reads;

'It shall be the duty of every health authority to take all lawful, necessary and reasonably practicable measures of preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings against any person causing or responsible for the continuance of any such condition.'

Madam Speaker, section 18 of the same Public Health Act of Kenya, talks about what nuisance is. Section 18 (1) (b) says; *'A nuisance is any dwelling or premises or part thereof, which is or are of such constructions or in such a state or so situated or so dirty or so verminous as to be in the opinion of medical officer of health, injurious or dangerous to health or which is liable to favor the spread of infectious diseases.'*

Madam Speaker, if you get the history of that wall before it was brought down, we had lost two people and that didn't need a Health Officer to notify us on the same. The honorable member from West Nyakach is still asking whether or not there was a Medical Officer present and yet somebody lost a child and a mother for heaven's sake. It is not a joking matter and I believe that it was commendable for the City Manager to bring down the perimeter wall and it is also required under this Act that the people responsible that is; the school, to reconstruct the wall to be tenable. They should even be charged to pay the county government for the machinery and manpower used to bring the wall down on their behalf. I understand the concerns of Members that the wall was providing security but, how would it have been if the same wall killed students that it is supposed to be protecting because it killed a mother?

Madam Speaker, I now you are happy as a Board Member because it killed somebody who was not part of the school so you feel the school was still secure. But the same wall would have killed students. What would you say right now? Go and tell the Board members to be responsible people and provide the school with security which entail building a wall that meets the structural demands of the school. Thank you Madam Speaker and I support.

The Temporary Speaker (Hon. Inviolata): Yes, Chief Whip.

Chief Whip (Hon. Misachi): Madam Speaker, I stand to support the report. Sadly, the lady who was killed by the wall is my relative; she comes from Gem. The city management took great care of the students because they went there late in the night when the students were asleep. They did

not interfere with the school. The lady died at 7.30 in the morning and the demolition happened at 11 p.m. – this was to protect our kids.

The action of the City Manager was triggered by the death of the lady. That is the best any authority could have done because we were going to lose more lives. The Construction Authority of Kenya and the Board of Kisumu Boys Secondary School should be charged because of their negligence and carelessness because the right materials were not used in the construction of the wall. Thank you.

The Temporary Speaker (Hon. Inviolata): Leader of Minority, Hon. Oiko Pete.

Leader of Minority (Hon. Pete): Thank you Madam Speaker. The issue of the perimeter wall of Kisumu Boys School is under discussion in this House because of the unfortunate death of a lady and injuries suffered by a young man. Let us reflect on the issue of this wall. When was the wall built? It is about 30 years since it was built. When the wall was built, it was very strong. It is the traders of Kisumu County along the wall that interfered with the strength of the wall. Who was supposed to control the traders? The County Government of Kisumu. Had the Board of Kisumu Boys complained to the County Government of Kisumu about the issue? Yes. But there was no response.

So this unfortunate incident happened because of our carelessness as a community. The wall was not built for business. It was built to give protection to the school.

People are now blaming the National Construction Authority; was it there during the construction of the wall? No; we only had the municipality.

The City Manager made a good decision to avert further losses of life. We now need to look forward into what should be done to protect the students of the school. But if that were to be done, will it again serve as another market to the traders? Once that wall is put up again, it should not serve as a market because the traders will weaken it.

I know some people are looking at this matter in terms of monetary form – that the city management should rebuild the wall; that will be a tall order because they don't have the allocation.

I support the report and let us look forward on how the situation can be helped. Thank you.

The Temporary Speaker (Hon. Inviolata): Hon. Manuche.

Hon. Manuche: Thank you Madam Speaker for giving me this opportunity to support this report. I have one concern. The wall is down and it is being fenced with iron sheets. I don't think there is safety for our kids. It is very easy for dubious traders to drill holes on the iron sheets and smuggle drugs to our kids. Let the authority concerned erect another perimeter wall for our kids. Thank you.

The Temporary Speaker (Hon. Inviolata): Hon. Philemon Ojuok.

Hon. Ojuok: Thank you very much Hon. Speaker. I can see people are starting to get sober. The most important thing we need to look at is the kids that are there. I know that mere Board members cannot know the soundness of a wall. I also know that in the city, there are those who are supposed to inspect buildings and know whether they are sound or not. If we are proactive enough and were checking those particular structures, it is possible that even the death that occurred would have been avoided. It could have been prevented from happening by demolishing that perimeter wall before it collapsed. There is also one important thing that the Leader of Minority has mentioned here: people were left without any alternative and for time immemorial, they have consistently traded there, nailing their things hence weakening the perimeter wall. All along, now we need to go back and look at what brought these.

Madam Speaker, I still hold onto the opinion that the city is partly responsible for that thing. That is because, if they could have seen it before its collapse, they would have raise an alarm. If also the traders were not there, there is a possibility that the perimeter wall could have lasted for a longer period. In case they could have identified the cracks on the walls, the other two deaths could have been avoided. By the time when they were responding to the emergency, that one was okay though it was a reaction instead of being pro-active.

Madam Speaker, in as far as emergency is concerned, we have Emergency Funds. I believe that is where we can get the resources to erect that wall. My recommendation is that the County Government of Kisumu sources the Emergency Funds, re-constructs that perimeter wall and compensate the families of the two people who perished as well. That is because if they were proactive enough, the deaths could have not been possible. Thank you very much.

The Temporary Speaker (Hon. Inviolata): Hon. Caren Muga followed by Hon. Pamela then Hon. Rashid.

(Hon. Muga speaking off the microphone)

(I do not know because the thing is I am declaring my interest. I have declared my interest).

The Temporary Speaker (Hon. Inviolata): What is it Honourable? Order! Order!

Hon. Muga: Allow me to continue because you had given me time. Madam Speaker, I am saying that I am in support of this report. The reason is, I had two issues only...

(Consultations)

The Temporary Speaker (Hon. Inviolata): Hon. Member, she has the right to speak in this House. She is also just like other Hon. Members, so just allow her to contribute.

Hon. Muga: The first issue was; who demolished the wall?

I have gotten an answer that the County Government of Kisumu accepted that they are the ones who did it.

The second issue is; I wanted to know if the notice was given to the school of which they have accepted that it was not done.

Those two issues were the things which were disturbing me. So, I wanted to know. After that, we as parents and as stakeholders need to give ideas now which we should emulate so that our minors are safe. Thank you Madam Speaker, for giving me the chance.

The Temporary Speaker (Hon. Inviolata): Thank you, Hon. Pamela.

Hon. Pamela Odhiambo: Thank you Madam Speaker, in this report; we are talking about lives lost and also the insecurity that our children are exposed to in school. I am a member of Planning, ICT and industrialization Committee. I went to Kisumu Boys High School and we met with the board members of the school. Before then, I thought that the County Government had weakened the perimeter wall so that it could be demolished. I asked them how it happened and they clarified that it was weak and some people had lost their lives, by then we were only talking about the perimeter wall.

In my opinion, we were supposed to discuss how the family of the people who perished there could be compensated because the perimeter wall was not weakened by the County Government but by the School.

The school had said that it was weakened by the traders that are doing businesses around. When we inquired if at all they had reported; they said yes. However, we know that this Assembly is like a court and we were supposed to be given copies of the letters that they wrote to the County Government. To date, those letters have not been brought so we are not sure whether the letters were written or not.

Madam Speaker, we were supposed to do a recommendation since the wall did not even have pillars as said by the Leader of the Minority, because, people always listen to what we say every day in this Assembly. I did want it to sound that the pillars were there, the House Committee went to school and we did not see those pillars, that means there were no pillars.

The perimeter wall was built 30 years ago. That is a way too long. By the time of its collapse, it was so weak that it could have killed so many people. We are representing our people here and every ward has an MCA. If the County Government was not taking any action, they could have reported this to the area MCA so that the matter could have been brought in this Assembly.

Madam Speaker, we are supposed to help the school because the children that are living there are ours. They come from all over and we need to help them. We know very well that the County Government only deals with the ECD but not primary and secondary schools.

This issue should even be discussed further with the area Member of Parliament because they always have emergency fund. We can talk to them while the County Government can also chip in with the emergency money because the school is located within the county. We are supposed to dig deeper and sit together and see how we can help these children. The school may not have enough funds now to erect the perimeter wall but as the County Government, we can chip in to help in this.

Madam Speaker, I am in concurrence with the contents of this report. The only thing that I have not seen is the recommendations. That is because, we were supposed to see the recommendations and I am not seeing any. Thank you Madam Speaker once again I support that we get to know how to help these children.

The Temporary Speaker (Hon. Inviolata): Yes Hon. Paul Okiri.

Hon. Okiri: Madam Speaker, under devolution the County Government and the National Government; the High school is under National Government. I wonder how the County Government will carry the work of the National Government. The CDF is there; *mheshimiwa* Ouda, come and help Kisumu Boys High School. Madam Speaker, the school has an allocation. If there is a destruction of such kind, it is the work of the National Government to come and help.

If it is an ECD or a Vocational Training College, it is the work of the County Government to provide help. Furthermore, we want to refer this matter to the Board so that they see a way. The Constituency Development Fund (CDF) is there for this but, not to carry the burden of the National Government to the County Government.

The Temporary Speaker (Hon. Inviolata): I hope the House has been informed. Hon. Rashid Miruka.

(Hon. Arao speaking off the microphone)

The Temporary Speaker (Hon. Inviolata): Please allow Hon. Miruka contributes then I give you chance.

Hon. Rashid: Thank you Madam Speaker for the opportunity that you have given to me. I am standing here to support the report. I want to applaud the person who raised the Statement and at the same time I also appreciate the members of the Standing Committee who took their ample time to visit the site and share the report with us today.

Madam Speaker, I have listened to the contributions of my fellow members and I looked at the findings and recommendations. However, I believe that, there are some bits of items that were never articulated. This is not just for Kisumu Boys High School but it is for all of the schools, for all of the institutions in this County. I am a bit disturbed to hear from a fellow member contributing that that was just a wall rather a perimeter wall erected to prevent invaders from getting

unauthorized access into the school compound without considering the structural reinforcement that is required. I believe that was a slip of the tongue.

Madam Speaker, today as we speak, we have the National Construction Authority that ascertains and approves works before any construction is done. Even in the structural plan, the structures must be technically fit and certified. My point is, by then, we had committees from the county that were looking into that. If the board and the school failed to adhere to that, then they are wrong. I want to say that it is not the right time that we should blame the County Government and the City Manager. That is because, the City Manager acted to mitigate the occurrence of such incident. Therefore, we should blame the board because that was their responsibility.

Madam Speaker, I looked at the committee's recommendations, summary and conclusion. There was nothing like; 'next time when we are doing the perimeter wall, we should follow the structural guidelines' that one I did not see. I also want to request the chair to include also; 'in future when they will be rebuilding the perimeter wall, they should do enough reinforcement so that, we should not incur any incident of the same.

(I can see Hon. Arao really want to call the mover to reply but I am still on my feet). In addition, I want to say that we have our families and children to protect. A life was lost here because from the minutes that I saw the Principal had foreseen that the wall was falling. What action did he take but only waited up to the time there was death and that is when it is rumored that he went to report. There is no document to prove that he reported and I believe that somebody said that we have conflict of interest here. If we did not have any conflict of interest here then the truth could have come out. Why did the Board lie that they reported the matter to the police and there was no evidence nor letter to prove that they did that. So, there was a bit of carelessness in their work. They needed to have brought on board the Inspectors and enforcement so that the perimeter wall remains standing for the rest of the year. We cannot just be told here by my fellow colleague who was a former bursar of the school that it was done in 1992 and so it deserved to fall. It deserved to have enforcement. Thank you.

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

Hon. Pst. Arao: Thank you Madam Speaker. I wish to call the mover to reply.

The Temporary Speaker (Hon. Inviolata): Hon. Olwal.

Hon. Olwal: Thank you Madam Speaker. I want to thank for the good deliberations and inputs on this report. I want to first deal with the issue of conflict of interest. I must declare that I am also a Kisumu Boys alumni and conflict of interest is being misused in this House because conflict of interest only arises when someone exploits a relationship for peculiar reasons. There was no any benefit that I Hon. Olwal or Hon. Muga was going to gain monetarily from the school. For your information Kisumu Boys is a public school. Being a diligent Chairperson I made sure that everyone declared their interest before any meeting started.

We have had issues about the quality of the wall and it is true that Hon. Members are allowed to extend their professional knowledge in this House according to County Government Act section 9 (e). But all the Hon. Members who are talking I don't know which engineering they studied to know the strength of a wall, who and when do we need a column on a building, region and on which soil. Not every wall has to build using a column.

(Loud consultations)

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

Hon. Olwal: It is not our business... I don't know who studied Civil Engineering here and on basic knowledge that you have extended the knowledge to; I want to tell you that there is a difference between a base and a column. We must differentiate between a base and a column. What we saw in Kisumu Boys was the base. There wasn't anything to do with column. It is the duty of MCA and the County Government of Kisumu to check on quality of the wall. We relied on technical report submitted by the City Manager and that is what we based as the wall being weak.

Madam Speaker, with all due respect, it is true and it has come out clearly that the wall collapsed and the County Government had to be blamed by allowing traders to do the activity on the wall and not the school. By then, we extended in our recommendation that any procedural fees and it happens that the Board told us that they had a budget to do the wall. So, we are saying that any procedural fees be waived for Kisumu Boys.

Madam Speaker, issues to do with strength of buildings have come out and it is not just Kisumu Boys wall but, we have seen several buildings collapsing and it is quite a challenge that our inspectorate teams must now move with haste to check on the quality of building because before anybody occupies these buildings. There should be inspections undertaken before anyone gets into the building. We should move with speed and that is why there is a bill that we should consider passing here but you refused. There is one thing that came out about the City Manager but I believe that he was just a victim of circumstances. The City Manager acted to save life and that is the truth.

We as an Assembly we have assert our authority especially in implementation of this report, resolution of this report and relocation of traders so that the other wall remain safe for Kisumu Boys. It is my belief that the House will direct the Chairperson of Implementation that the recommendations contained in this report be implemented to the letter. I just want to plead with Members to adopt this report.

The Temporary Speaker (Hon. Inviolata): Thank you. A report on the statement regarding the Demolition of Kisumu Boys High School Perimeter Wall which was sought by Hon. Muga, brought to the House by Hon. Olwal, seconded by Hon. Khan and debated by Hon. Members. I therefore want to put a question on the adoption of the same.

(Question put and agreed to)

The Temporary Speaker (Hon. Inviolata): The report on the statement regarding the Demolition of Kisumu Boys High School Perimeter Wall on the statement sought by Hon. Muga is hereby adopted today Tuesday, 21st September 2021.

Hon. Members, I direct it to committee on Implementation for further action.

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

ADJOURNMENT

The Temporary Speaker (Hon. Inviolata): There being no any other business to transact, the House stands adjourned to 22nd September 2021 at 9.00 a.m.

(House rose at 3.44 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

Denis Onyango – Hansard Reporter

Jesca Otieno – Hansard Reporter