

## COUNTY GOVERNMENT OF KISUMU



### COUNTY ASSEMBLY OF KISUMU

### **THE HANSARD**

#### *Official Report*

#### SECOND ASSEMBLY – FIFTH SESSION

Wednesday, 17<sup>th</sup> March, 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): Clerk, please take us through the Order of the day.

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

### COMMUNICATION FROM THE CHAIR

**The Speaker** (Hon. Oraro): Hon. Members, I have the following communication to make. Hon. Members, I am in receipt of a letter from the County Commissioner concerning Public Hearing on the Taskforce on Review of Laws related to the Exercise of Power of Mercy pursuant to the provisions of Article 133 of the Constitution of Kenya 2010. The letter states;

Reference is made to a letter by the Principal Secretary in the Power of Mercy Advisory Committee dated 12<sup>th</sup> March, 2021 on the same matter.

The Taskforce on the Review of matters on the Power of Mercy under the provisions of Article 133 of the Constitution of Kenya 2010 is scheduled to conduct Public Hearing in twenty-four Counties spread across the Country. Members of the public and stakeholders are requested to

appear before the team on the specified dates and venues as indicated below. The taskforce requests that the Government, Administrative Officers to coordinate the exercise.

The Attorney General vide Gazette Notice No. 7382 of 25<sup>th</sup> September, 2020 did constitute the Taskforce on the Review of the said laws that is the Power of Mercy under Article 133 of the Constitution of Kenya 2010. The County Commissioner is inviting all Members of the County Assembly to attend the Public Hearing which will held on the 01<sup>st</sup> April, 2021 at the Mama Grace Onyango Social Hall As from 09:00 a.m. to 12:30 p.m.

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

### **PAPER LAID**

**The Speaker** (Hon. Oraro): Hon. Ngeta.

**Hon. Ngeta:** Thank you Mr. Speaker. Pursuant to the provisions of County Assembly of Kisumu Standing Orders No. 182 (6), I wish to today Wednesday, 17<sup>th</sup> March, 2021 table before this House the Children, Culture and Community Service Committee Report on the Benchmarking Exercise with the sister Committee of the Nairobi City County Assembly. Thank you.

*(Hon. Ngeta tables the Report before the House)*

**The Speaker** (Hon. Oraro): Hon. Members, I acknowledge receipt of a Report from the Standing Committee of Children, Culture and Community Service on the Benchmarking Exercise with the sister Committee of the Nairobi City County Assembly presented by Hon. Maurice Ngeta, chairperson of the Committee. I do direct the House Business Committee considers scheduling this report for deliberations. Thank you.

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

### **NOTICE OF MOTION**

**The Speaker** (Hon. Oraro): Hon. Ngeta.

**Hon. Ngeta:** Thank you Mr. Speaker. Pursuant to the provisions of County Assembly of Kisumu Standing Orders No. 45, I wish to give Notice of Motion on a report from the Standing Committee of Children, Culture and Community Services on the Benchmarking Exercise with the sister Committee of the Nairobi City County Assembly. Thank you.

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

### **STATEMENTS**

**The Speaker** (Hon. Oraro): Hon. Members, it is statement time.

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

**Hon. Khan:** Thank you Mr. Speaker. I rise citing the provisions of standing Orders No. 41 (2) (d) and I would like to seek for a Statement on behalf of my Chairman Hon. Steve Owiti, Chairperson, Budget and Appropriations Committee.

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

**Hon. Khan:** Thank you Mr. Speaker. Pursuant to the provisions of Standing orders No. 41 (2) (d). I wish to convey a Statement to all Sectoral Committees Chairpersons.

Mr. Speaker, the Kisumu County Fiscal Strategy Paper FY 2021/2022 was tabled in this House on Tuesday, 02<sup>nd</sup> March, 2021 and accordingly committed to all Sectoral Committees and the County Budget and Appropriations Committee in accordance to the provisions of County Assembly Standing Orders No. 208 (3). With the consideration of the short timeframe provided by the law to process the KCFSP. The Budget and Appropriations Committee informed all the Sectoral Committees to interrogate the paper and submit their recommendations of their analysis on the Policy Paper on or before Friday, 19<sup>th</sup> March, 2021. Therefore, all Sectoral Committees are required to comply with the deadlines therein provide. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members, I believe that is a very direct communication that All Chairpersons of Sectoral Committees to interrogate the CFSP and forward their reports to the Budget and Appropriations Committee. I recall that CSFP has timelines and it is unlike the CBROP so, the earlier the better.

**The Speaker** (Hon. Oraro): It is still Statement time, I noticed Hon. Pamela Odhiambo.

**Hon. Pamela Odhiambo:** Thank you Mr. Speaker. Pursuant to the provisions of Standing Orders No. 41 (2) (b). I wish to request for a Statement from Chairperson, Standing Committee of Public Works, Roads and Transport.

Mr. Speaker, it is in the public domain that the County Government of Kisumu implemented the Machine-based System to construct county roads in Kisumu County. Funds were appropriated for fuel by the County Government for Graders.

Mr. Speaker, however in the FY 2020/2021 it has been noted that the Graders have not been operational in various Wards. The issue of Roads Construction is emotive and require regular maintenance due to dramatic changes in weather patterns as currently experienced. Mr. Speaker, a number of roads notably in Manyatta “B” Ward are in dilapidated conditions.

Mr. Speaker, it is against this backdrop that, I would like to seek for a Statement from the Chairperson, Standing Committee of Public Works, Roads and Transport regarding the funds release. The Committee should inquire, investigate and look into and report back to this House on the following;

- a) How much has the Department released so far per Ward for the initiative?
- b) How many kilometers of road have been undertaken per Ward so far in the County through this initiative?
- c) When is the Department of roads envisaging to complete the remainder of kilometers in the County?

Mr. Speaker, I rest my case. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members, I am not seeing the Chairperson Roads Committee but I believe that the Vice-chairperson is in the House, maybe I give you the opportunity to respond to that?

**Hon. Guya:** Thank you Mr. Speaker. Before I give my response, I equally want to make some clarifications on the Statement sought by Hon. Pamela Odhiambo. Mr. Speaker, the Hon. Member is requesting for a Statement on Graders and I don't know whether we respond on Statement on Graders alone or including the machineries working on various roads within the County. This is because, when you talk of Graders, there were no allocation for Fuel for Graders but for all the machineries. Be it the Roller, Excavator, Tippers and others.

Mr. Speaker, if it is about the Graders unaccompanied then we can get this response in the next one week. If it is on all the machineries working in all the roads, then I want to request that you accord us two week. I believe that the Member needs to clarify on that. Thank you.

**The Speaker** (Hon. Oraro): Hon. Pamela Odhiambo, that was the Vice-chairperson of Roads Committee and I believe that you heard his concern and there is need for further clarification.

**Hon. Pamela Odhiambo:** Thank you Mr. Speaker. Fuel was allocated to all machineries and I request that we get responses on all the machineries. As you can see, all our road are in pathetic conditions and I believe that all Members are waiting for that report. Mr. Speaker, if at all there is an MCA who wants to add something that I might have omitted and did not include in the Statement, I am requesting that in executing that, I seek your indulgence that you invoke the provisions of Standing Order No. 1 and allow Member to build on that. Thank you.

**The Speaker** (Hon. Oraro): Mr. Chair, I am seeing question number (a) to (c) but I believe that by the leave of the House, if there is anything that you want the Chair to respond to while the Committee will be responding to the Statement will be included. I believe that he has requested for two weeks instead of one week? Vice-chairperson, what duration are you requesting for?

**Hon. Guya:** Mr. Speaker, if it is a comprehensive report on all the machineries, then, I want to request that we be accorded two weeks. But I equally want to agree with her that you give the opportunity to Hon. Members if in case there is any additional information that they want us to get from the Department of Roads so that we combine them together and bring a comprehensive report. Thank you.

**The Speaker** (Hon. Oraro): So, by the leave of the House I will accord any Member who has something to add on to that Statement. I want to request that if a Member has raised something let the other Members not dwell on the same. If Hon. Pamela has capture that, then we don't consume the Statement Hour.

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

**Hon. Ojuok:** Thank you Mr. Speaker. What I would like to add is the Scope of Work. This is because, there is this tendency of saying that we have done five kilometers. On the five kilometers what have you done? Have you graded so that at least we are able to gauge. There is this inclination where these projects are taken to the Wards and there is no Scope of Works they intend to do and they only go to the Wards when it is KRB Roads but these other ones, we are not sure what they won't do. So, if they indicate that they have this number of Kilometers on this road, then, they need to indicate exactly what has been undertaken. They need to also provide us with a schedule on when they intend to undertake works in those particular areas. So, that it is indicate that on this particular day, they will be in Central Nyakach Ward undertaking this number of kilometers, scope of works and this number of days.

**The Speaker** (Hon. Oraro): I hope the table Clerk is taking notes?

**The Speaker** (Hon. Oraro): Hon. Ngeta.

**Hon. Ngeta:** Thank you Mr. Speaker. I believe that this is an issue of Topical Concern and you should have given Members time to debate on it. Mr. Speaker, what we require from the Roads Department is the accumulative number of roads that have been done to their completion. It is so sad when Members go home because of the issues to do with Roads. As we are speaking, the rains are just around the corner and the deluge will continue up to the month of October and there is nothing tangible on the ground that has been done. So, I seek for your indulgence that you accord Members time to debate on this matter conclusively. Thank you.

**The Speaker** (Hon. Oraro): Hon. Ngeta, I believe that it is the reason that I gave you time to add what has been omitted by Hon. Pamela Odhiambo.

**Hon. Ngeta:** Mr. Speaker, I have consumed my time...

**The Speaker** (Hon. Oraro): Hon. Member, you know that you are saying that we give Hon. Members time to deliberate and I have just said that any Member who has anything to add can do so.

**Hon. Ngeta:** Mr. Speaker I am talking on behalf of Members who are in the House.

**The Speaker** (Hon. Oraro): Hon. Member, but they are here and they can speak.

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

**Hon. Atieno:** Thank you Mr. Speaker for according me this opportunity. This is a matter of Topical Concern and the issues of accessibility of our roads is serious. Mr. Speaker, I would like to add that, let it become a policy of the County Government of Kisumu that every project that is being undertaken by the County Government of Kisumu, must have a Project Management Committee (PMC).

Mr. Speaker, it is my prayer to see when this report will be brought to this House that, every road that has been done, we want to be told that there are PMCs that is responsible for supervision of works that is being undertaken by the Department. This is because we cannot give the Roads Department a blank cheque to do whatever they need without supervision. So, every project that is being undertaken by the County Government of Kisumu, must incorporate a PMC.

Secondly, I love to see the number of kilometers of roads that have been undertaken by the same Department and the remainder that is yet to be done. Mr. Speaker, in terms of our Wards, because there is a silent complaint...

**The Speaker (Hon. Oraro):** Hon. Atieno, we agreed that what has been raised like the total number of kilometers done has been asked and I believe that you add more on what the Committee should inquire.

**Hon. Atieno:** Mr. Speaker, I have touched on the issues of the PMCs which I believe is necessary and I would equally like to see that has been done per Ward including the number of Kilometers that have been done to date. This is because there are rumours that there are some Wards that have graciously received far longer kilometers compared to other Wards. So, I believe that in the spirit of fairness, that need to be captured. Thank you.

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

**Leader of Majority (Hon. Onyango):** Thank you Mr. Speaker. I know that the issue of roads is very emotive to many Hon. Members because most of our roads are in dilapidated state. Mr. Speaker, sometimes I retrospect and I say that probably I am being vindicated because, when we were going through this policy direction, I am one of the very people who was very skeptical about it. This is because I did say that sometimes, when we are piloting a programme, the success rate may not be very good.

Mr. Speaker, I want to say here without any fear of contradiction that, I am one of those people who has not benefited from this Machine-based-Programme and that is the truth. Mr. Speaker, what I would want to say is this, because I can see that probably we may not succeed so much because if the rains were to start today, then, in some places like where I come from, the roads may not be done. So, among other things that the Committee can look into is have there been challenges that have bedeviled this programme. If there are challenges, because now this is a policy of constructions of all Roads in the County. How do we remedy those challenges going forward so that if we are to move in the next financial year, then roads will not suffer because of the

challenges that we have experienced doing roads through machine based program in the financial year that is ending. Thank you.

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

**Hon. Okumu:** Mr. Speaker in addition to what has been asked, I want to know how in Miwani Ward even after the Government had issued a policy on machine based maintenance; Miwani ward managed to get two roads worth Kshs 8 million that are contracted. I want the Standing Committee of Roads to find out because it is so sad that is where the Leader of Majority who sells Government policies in this House comes from.

**The Speaker** (Hon. Oraro): Hon. Members, I believe that it is in order because the Leader of Majority is present and would probably have the answer that might exonerate the chairperson on the same.

**The Leader of Majority** (Hon. Onyango): Mr. Speaker, I want to remind Hon. Okumu that in line with his phrase of ‘Only a fool doesn’t see far’, I am also choosing not to be a fool, thank you.

*(Laughter)*

**The Speaker** (Hon. Oraro): Yes, Hon. Olwal.

**Hon. Olwal:** Thank you Mr. Speaker, on the same note, I would also want to ask the committee to find out the criteria they used to determine the efficiency and productivity of the hired machinery. It is a common practice across various wards as I have witnessed that hired machines lie idle because they have not been provided with fuel yet the owners are still paid. Is it in order to adopt the practice yet it is eating up the program’s funds?

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

**Hon. Miruka:** Thank you Mr. Speaker, besides the issues raised, I would also want to know why they appropriated money, which amounted to about Kshs. 20,000,000 million as confirmed by the CEC, but some of the Members are often told to repair the tyres and fuel out of their own pocket. Consequently, the reasons why some wards haven’t received money for the machine based.

**The Speaker** (Hon. Oraro): I hope the Chairperson has taken that into account. Table clerks ensure you communicate the same to the committee of Roads, Public Works and Transport immediately.

**The Speaker** (Hon. Oraro): It is statement hour so we are still on.

**The Speaker** (Hon. Oraro): Yes, Hon. Johnson Guya.

**Hon. Guya:** Thank you Mr. Speaker, I had sought for two statements more than a fortnight ago, which you had also directed that they be responded to last week. The first statement was to the Chairperson of the Committee on Implementation about the Implementation Status of the Projects

of FYs 2019/2020 and 2020/2021. The other statement was to the Chairperson of the Committee of ECD, Adult Education and Vocational training about the issue of Bursaries. If you can recall Mr. Speaker, the latter requested for one week. However, even after you added him an extra week on the same and directed that the response be brought, there is still nothing to show. How I wish you could help out with this.

**The Speaker** (Hon. Oraro): Since both chairs are here, let us start with the Chairperson of the Implementation Committee.

**Hon. Agolla:** Thank you Mr. Speaker, regarding Hon. Guya's request, as a House Committee, we took the initiative to do what is expected as stipulated in the Standing Orders. I want to report to this House that we did a letter to the County Secretary but the Executive has not responded up to date. We then did a letter to remind them of the same but they haven't responded. We therefore decided to sit and resolved that we invite all the CEC Members, but they communicated back with the claim that the cabinet is engaged. Mr. Speaker, before we take any action, I want to ask for your indulgence and that of the House to advise us on the way forward because the Implementation of Projects in this county is wanting. Thank you.

**The Speaker** (Hon. Oraro): Yes, Hon. Guya. Just before you reply, I believe that we agreed that despite the lack of responses from the Executive; if a committee is given a timeline of submitting a report, they should submit it with attachments of the said letters and give recommendations on what you want the House. Hon. Guya, are you satisfied with Hon. Agolla's submission?

**Hon. Guya:** Mr. Speaker, I am not satisfied by that response given by the Chair of Implementation because, we are heading to the last quarter of the financial year but almost 90% of the projects, we had budgeted for in this FY have not been rolled out. On Monday when we were at the Pre-budget Conference, several issues came up and key among them was of the Pending Bills. Without most of these projects rolled out, how are we as a county going to ensure that this issue of Pending Bills is cleared?

Mr. Speaker, I am also aware that the Committee on Implementation invited us here after they had informed us that they had invited the Executive. Indeed, it was a great turn out by Members but not a single CECM showed up. I want to concur with you that the reports be brought forth and the lack of response from the Executive should form basis of the report, then we can make our recommendations from that. I want to plead with you and the Committee on Implementation to ensure that the two reports of both FY 2019/2020 and FY 2020/2021 are brought to this House so that we make an informed decision as a House.

Mr. Speaker, even in the last FY 2019/2020, there are several projects that haven't been completed to date, and that's why we want to know how many they are. If we continue to have pending bills yet projects aren't being done then it becomes peculiar to say the least. As we speak, several contractors haven't been paid. We were told that the total pending bills as at the last two FYs

2018/2019 and 2019/2020 had amounted to close to Kshs. 2,000,000,000 billion. Maybe by the end of this FY 2020/2021 it will have amounted to even Kshs. 5,000,000,000 billion. We need to ensure that we correct that before things go out of hand. I therefore want to request the committee on implementation to help us and in turn help the county.

**The Speaker** (Hon. Oraro): I want to direct that I have added the Committee on Implementation an extra week to do a report regardless of the responses or not, so that we deliberate on your recommendations for the way forward.

**The Speaker** (Hon. Oraro): I noticed Hon. Okiri.

**Hon. Okiri:** Thank you Mr. Speaker, after your ruling, my idea has been overtaken by events.

**The Speaker** (Hon. Oraro): Yes, Hon. Olwal

**Hon. Olwal:** Thank you Mr. Speaker, I would like to respond to Hon. Guya on behalf of the Chairperson of the ECD, Adult Education and Vocational Training Committee.

**The Speaker** (Hon. Oraro): I can see the Vice- chair to the ECD, Adult Education and Vocational Training Committee, have you agreed to represent?

**The Speaker** (Hon. Oraro): Hon. Ogaga.

**Hon. Ogaga:** No, Mr. Speaker. Thank you for protecting me from Hon. Olwal and the fact that he assumes my existence as he was already in his feet to submit. Nevertheless, I rise on Standing order no. 41(2) (d) to give my views on statements made by Hon. Guya. As usual, in case of thorny issues, the Chairperson, Hon. Arao takes off but when it is time to get to bed with the Executive then he speeds off to it. This is the reason our Committee has failed to deliver on its mandate and therefore we are feeling the heat as a county because our children are sent home for school fees. There are so many issues surrounding the education docket. Mr. Speaker, the first of the three questions sought by Hon. Guya was on the Status of Bursary Fund Account for the FY 2019/2020. The second question was for the committee to provide a detailed list of the Beneficiaries of the Bursary for the current FY 2020/2021 per Ward and per Institution. Lastly, he sought to be provided with a Detailed List of Beneficiaries of Vocational Training Center Capitation for the FY 2019/2020 and FY 2020/2021.

Mr. Speaker, a letter was done to the Department of Education concerning the same and the response for the first question was done with a confusion of the FYs instead of the one we requested. It is quite in order for a whole department to have records both soft and hard copies. I even made calls to the CEC Education, Mr. Awiti, on behalf of the Committee, and he promised that he would provide the correct information but he did not. Consequently, the response they gave for the list of Bursary Beneficiaries was for the current FY 2020/2021 per Ward, which doesn't give us exactly what we asked for.

Mr. Speaker, you are aware of the interruption caused by COVID-19 Pandemic on the academic calendar and most of our beneficiaries were not awarded bursaries because there were no studies. We are left to wonder where these funds were channeled to and in any case, they were disbursed, where is the list for the same. At some point, we invited the CEC Education and the CEC Finance through the Office of the Clerk.

When they came, they gave us new worship ‘choruses’ which we fell for and even sang in unison. However, when they left, they never heeded to their bargain. In addition, there was another time when a letter was done on the same but he withdrew the letter claiming that it wasn’t done well. We later redid the letter on the same issue but it hasn’t been responded to date. This has made us not have a comprehensive report for the same to this House. If you look at the annexes, they gave us, the answers don’t make sense.

Mr. Speaker, I want to refer you to annex 1, where they have given us a breakdown on how they paid different institutions various fee. However, the scholarships have only covered form 1 to 3 missing out form 4. Universities and colleges have also been paid for as well as the driving schools. If we come down on the Note; the balance carried forward consists of payments of driving schools which have submitted requirements for payment yet it is stated that the driving schools have been paid. How are we to know which ones have and haven’t been paid for and why? Mr. Speaker, the department is here in Kisumu with staff that ensure that records are kept of all institutions including the driving schools in this county. Why can’t they go there and get the information?

Mr. Speaker, it is quite unfortunate that a whole Department of Education blames inability to pay bursaries on not having account details of various institutions yet it is always provided in banks. Unlike the Executive, we the Assembly are on the ground and feel the heat of what happens. As we speak, there are university students who haven’t done their exams due to lack of that fund yet, Mr. Awiti and its incompetent team, (*Feet thumping*) stand to tell us that payment wasn’t done because they lack bank details for those institutions. Why can’t they even engage us? I can volunteer very fast by going to the bank to bring this information so that payment is done. Our homes get flocked every morning, every day and whichever day of the week. Students and their parents are there in the community languishing because they cannot get education since they are not getting any support from this county government of Kisumu, yet an allocation was made for this Mr. Speaker.

Mr. Speaker, as the Committee of ECD Vocational and Training, we have had several meetings, and I say several of them yet, we have not had any successful way of doing a report so that we find a breakthrough on the issue of Scholarships and Bursaries. Mr. Speaker, today I will speak out my mind on this because I am referring to the whole of the department and their entire work that they do.

Generally, bursaries and scholarships delay if not even done in good time. If you look at our TVET centers, they have inadequate or other are even lacking structures and yet there is money meant for children’s education.

Mr. Speaker, we have TVET Capitation for the youths and ECDs especially for the youths, which are also provided for by the National Government. How is this money spent and if you ask for it, nobody be will even answerable for you. We have Mr. John Awiti who is the CEC for Education and his incompetence team, including him as a person, siting in that office, claiming they are working, claiming that they are serving the people we represent yet they are doing nothing.

Mr. Speaker I remember when Mr. John Awiti was brought on board. He came here with his team, we had a meeting and the “praise and worship team” that we have said; “Thank you so much to

Mr. Governor, this time round you have brought us competent people and work is going to be done” I stood up said before them and told them that this is going to be the same team that went home and therefore we need technical persons to go to the field and do the right job inform of infrastructure.

Mr. Speaker, our schools are in bad shape in terms of infrastructure and we have a new team...

**Hon. Atieno:** Point of information.

**The Speaker** (Hon. Oraro): Order, what is it Hon. Atieno, whom do you want to inform?

**Hon. Atieno:** Mr. Speaker, with due respect, the Hon. Member has just alluded that there is a praise and worship team in this House. So I am wondering if these people are not Hon. Members but choir members from ACK or CATHOLIC. Maybe she can clarify.

**Hon. Guya:** Point of order.

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

**Hon. Guya:** Thank you Mr. Speaker. I want to believe that the one is not information. You know that Hon. Atieno does not understand the Standing Orders for this House. But, he should have stood on a Point of Order, not information because there is no information passed.

**The Speaker** (Hon. Oraro): I felt so because you are seeking clarification from Hon. Judith Ogaga to substantiate a matter. So, it is important that we refer to the Standing Order as we proceed. Anyway Hon. Ogaga...

**Hon. Ogaga:** Thank you Mr. Speaker...

**The Speaker** (Hon. Oraro): I want you to respond to Hon. Atieno.

**Hon. Ogaga:** Mr. Speaker I withdraw that term and say that we have not been able to exercise our oversight role well which is our responsibility. We have been approving with yes yes without questioning. We even do not say no; that this is not supposed to be like this. That is what I meant, but I decided to sugarcoat it a bit Hon. Speaker and I am sorry for that.

Mr. Speaker, if you travel across this county and check the ECD and TVET Centers, we have many stalled projects while others do not even exist. We have a Feeding Programmes for the ECD. So, the small children from poor backgrounds, we need to give them nice foundation for them to grow up in a good and even be able to perform.

The leadership of our county is made up of highly educated people. I respect my professor. But, will we really have future professor in this county? Mr. Speaker, we are killing our county by giving little support we are giving them in terms of education. I remember the budget for the FY

2017/2018 only had a slot of 4% towards Education. And I went to our Governor with our team and he said that he would improve on it but, to date we have not seen anything.

Mr. Speaker, because of these, I want to say that the Minister for Education has failed and is not qualified to hold that office. According to the Constitution of Kenya 2010 Article 6, Chapter 73 (1) (a);

- i. He has failed in his responsibility as a leader.
- ii. He has failed to demonstrate respect for the people of Kisumu County.
- iii. He has brought dishonour to the county and dignity of the office he is holding.
- iv. He has failed to promote confidence in the office he is holding.
- v. He has failed to promote public confidence in the integrity of the office.

Mr. Speaker, according to the Constitution of Kenya 2010 Article 183 (1) (a); Mr. John Awiti has also failed to implement County Legislation which is the Budget for the FY 2019/2020 and 2020/2021. Mr. Speaker, this Minister needs to be impeached...

**Hon. Agolla:** Point of order Mr. Speaker.

**The Speaker** (Hon. Oraro): What is it Hon. Erick Agolla?

**Hon. Agolla:** Mr. Speaker, I am a bit confused because we are on statement hour and we are anxiously waiting to respond and participate in the debate on the statement raised and the responses. We are not discussing the conduct, capability and the suitability of the CEC for education.

Let us address the matter of Bursaries and Scholarships. If a member has a Motion to discuss a CEC member, it is in order and is also indicated in our Standing Order to bring up a motion so that we discuss the conduct and the capability and the suitability of the CEC for Education Mr. John Abiero Awiti. Kindly, let us address and stick to the bursary which is a serious issue. We are concerned and we want to contribute in the debate about it, thank you.

**The Speaker** (Hon. Oraro): Thank you. I believe that, I want to agree with Hon. Erick Agolla. The questions that were raised were very clear and the answers are supposed to relate to the same question. There is a process of bringing a Motion which is intended to discuss the Conduct of any Leader of CEC Member. Therefore I believe that it is out of order to discuss the conduct of any leader without bringing it in an appropriate manner. So, Hon. Judith Ogaga, restrict yourself on the questions raised by Hon. Guya.

**Hon. Ogaga:** Thank you Mr. Speaker...

**Hon. Olima:** Point of information.

**The Speaker** (Hon. Oraro): Yes, Hon... Whom do you want to inform?

**Hon. Gard:** Hon. Erick Agolla.

**The Speaker** (Hon. Oraro): Hon. Agolla, Hon. Olima wants to inform you.

**Hon. Olima:** Thank you Mr. Speaker. What I want to say is that I think the Hon. Member on the floor is the Vice chair of the ECD, Adult Education and Vocational Training, and the issues being raised concerns people in a department. Before you go to an individual for discussion to discuss anybody, we have to discuss the office and the office holders. So for us to say that the issue of Bursaries and Scholarships, and CEC for Education are two different things, it is a lie. Let Hon. Erick Agolla know that bursary is connected to the Chief Officer, the CEC, the technical staffs and everybody from that department, and the answers that we have received which are below...I do not even know who wrote those responses are by the department members.

So, I believe that the Vice-chairperson is in order to discredit the people who gave us the responses. It does not mean that we are discussing the conduct of an individual. But, rather discussing the conduct of the Department of Education on how they have handled the issues to do with issues of Bursaries from the year 2019 to date.

That is the reason why we cannot disassociate them from the issue of the bursaries of Kisumu County Government. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members, I believe that I had already given direction of that of Hon. Olima. Let us restrict ourselves to the questions raised by the member. I always say it here that whether you get a satisfactory answer or not from the department, it is upon the committee to make recommendations.

If you want to discuss the conduct of any person for instance from that office, then that one ought to have come as a resolution. THAT, you recommend; that, the conduct of such a person be discussed. But, as at now without that recommendation, we cannot jump into the conduct or suitability of any leader including the Hon. Members without bringing it in an appropriate way. It is also in our Standing Orders.

So, I have directed Hon. Ogaga to restrict herself on the issue of the Bursaries and Scholarships. In case discussing the conduct of any leader from that office was part of the resolution, then you should be clear. THAT you are recommending that the conduct of so and so be discussed and then it is brought in the appropriate way.

**Hon. Ogaga:** Thank Mr. Speaker for the correction. I am bitter as the Vice Chair of that committee and also as '*Mama Education*'. That is why I went that far because we have not been able to bring a report and yet all members are really eager to get this report because of the way our children are.

Mr. Speaker, like I said; it is good to speak the truth. Hon. Agolla cannot walk freely within his ward (South West Kisumu) because of the noise parents and children are making since they want

this bursary support. So, it is only good to give me support for us to get this thing. Otherwise Mr. Speaker, it has taken too long and I request your office plus your leadership to help us. Because this may also be taken as if we do not have the capacity as a House Committee, but, that is not the case. I believe that, we have done the much we can and the Department of Education has not been able to respond accordingly. Therefore, I request on behalf of my chair and also on behalf of the House Committee that, we be given support from your office for us be able to get this and act accordingly. Therefore, help our children get the bursaries and get back to school. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members, this is not a debate but, a reply from the Vice-Chairperson. First of all, I want to give opportunity to the owner of the statement as a procedure.

**Hon. Guya:** Thank you Mr. Speaker. As you are aware that this is a Matter of County Importance, I would also wish that even as we discuss this issue, the Hon. Leader of Majority should be seated because I know he will go and respond to the Executive. He needs to get ‘everything’.

First of all, it is sad that whenever such an issue comes to the House, then the Chairperson of that committee (Hon. Arao) walks out. Initially the chairperson was comfortably seated here. Then when he realized that this was coming, he walked out. I am sure that if you check the attendance register you will find that he was present yet now he is not in the House.

Secondly, bursary is a fund and I believe that all funds are protected. Funds operate on Laws and Acts. I want to believe that any money going to that fund is safe and protected. Mr. Speaker, over the weekend, I was at home and during that time, a certain student came to me. The student is a total orphan from Kamagambo TTC. It was so sad that the student has been at home for more than one month. A total orphan, whom we had allocated a bursary of Kshs 10,000. The administration was requesting the student to get as little as Kshs 5, 000 to enable the student afford being in school and the student could not afford that. However, we managed to raise that and the student went back to school.

Today, I have just received more than five text messages of the student being sent back home. The administration allowed the student to be in school for a week or two, but, the student is being sent home.

It is so sad that we even allocated funds, and the funds are there but, our students are not able to get what is rightfully belongs to them.

Mr. Speaker, for the past one month, I have attended BOM meetings of four different secondary schools. I want to confirm here that in all the four secondary schools, they have not received any penny from the County Government of Kisumu. They have received funds from NG-CDF and other counties, but not even a single sent from the county government of Kisumu. Even the form fours that were being paid for, the ones who are doing exams have not received funds too.

Mr. Speaker, it is too sad that we have a department and I want to say that when the Honourable CEC Member for Education was brought here, we thought we were getting an Educationist. But, I have realized that, that is the reason as to why he could not capture the seats he went for. I do not want to describe him but, I want to leave it at that point. The Hon. John Abiero Awiti. Maybe, maybe, but, I want to leave it there.

Mr. Speaker, I had raised some Statements. No;

1. For the Committee to provide the Status of the Bursary fund Account for the FY 2019/2020.

In this response, I cannot see the statement of the fund account. I do not know whether this is what we call response or not. But, it is not there. That is the first question.

2. Was for the Committee to provide a Detailed List of Bursary Beneficiaries for the Current Financial Year per ward per institution.

Mr. Speaker, again I have not seen that response here. I do not know what we are discussing here.

3. Was for the committee to provide a Detailed List of Beneficiaries of VTC Capitation for the FYs 2019/2020 and 2020/2021.

Mr. Speaker, I do not know whether any member has seen that list. I am yet to see that because, maybe whatever I have might be different. Mr. Speaker, with all those, it shows that none of those statements have been answered.

This one tells us of so many things;

- a) Either the committee is unable to handle this.
- b) The department does not have the answers to those statements.

Either of them or both could be possible. In my view, if the committee is unable to handle this, then we can refer this to the Ad Hoc Committee or the General Oversight Committee because in this way, we are not going to move.

Another way forward if the department is unable to produce the list is to ensure that the office holders; the CEC and the Accounting Officer who is very arrogant in that office needs to pave way for the people who are able to work for the residents of this County.

Mr. Speaker, the schools were closed due to the outbreak of Corona Virus Disease 2019 (COVID 19), that was enough time for the department to prepare; there is no excuse for that. All these lists of bursaries from various wards were ready by early next year. The department had all these lists. The only thing that was remaining was for the Finance and Education Departments to ensure that they forward the moneys to various institutions.

However, for more than one year down the line, we are still discussing about the bursary list of beneficiaries for the last financial year. This financial year, there are no students who had applied for bursaries. The ones on discussion applied during the last financial year, yet the department is still unable to pay for them to date. It is that either the department has failed or the ECD, Adult Education and Vocational Training are unable to perform to the expectations of this House.

Mr. Speaker, I therefore want to recommend; even though the committee has not brought any recommendation and again, they could not bring any recommendation because they could not answer those Statements. This shows and I want to believe that this is the truth that this document, if you look at it, it was stamped the date of 2<sup>nd</sup> March, 2021. When we were here yesterday 16<sup>th</sup> March, 2021, there was no response from the department.

Mr. Speaker, today, because the House was heated yesterday, we are now getting a report that was brought to this Assembly two weeks ago. I had sought for the Statement and I want to believe that the committee informed the CEC Education on the heat this matter is generating and he brought the response on the date of 2<sup>nd</sup> March, 2021 and today the 17<sup>th</sup> March, we are still being told that the committee was unable to interrogate the department and get this document.

Mr. Speaker, it is either; you forward this to an Ad Hoc Committee or to the General Oversight Committee, or as a House we take action against the department for delaying the payment of the bursaries.

Mr. Speaker, our students are suffering, our schools are closing down. So many of those students have even left school. Even those that we placed under Governor's Scholarship, have not been paid for. What kind of impression are we putting on the face of the County and on the Governor? Is it that the Governor has failed or the County Government of Kisumu has failed? If we are not even able to pay for the scholarship for the needy. I think when we were awarding the scholarship for the needy and the vulnerable students; if you are needy and one year down the line the County Government cannot pay for you school fees then it is better we had left those students to go to day schools where their parents could afford to pay maybe Kshs. 3000 and they go learn than subjecting them to big schools and some of them cannot even afford the fare to the various schools they are.

**The Speaker** (Hon. Oraro): I have to agree with Hon. Guya. I believe that you have made the point and I can feel that you are repeating the same points.

**Hon. Guya:** Mr. Speaker I could talk the whole day because I am really feeling the bitterness and I want to believe all the Members have that bitterness. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members we have heard the reply by the Committee of Education and going by the questions raised and you can see that a response was received by the committee. This is a matter that was not raised today but sometimes back and like I had said before, it is the responsibility of the Members to do oversight. It is the responsibility of the committee to work on the matter that has been committed to the said committee. Our Standing Orders is very

clear that if the Chairperson is absent then there is the Vice Chairperson and if both are absent then the committee will pick a Member to Chair a committee. So it is not an excuse that the Chairperson was not there or the Vice Chairperson. I believe that it is not in order to the Chairperson or the Vice Chairperson but the House Committee itself. The success of what is being done in the County lies in the Assembly depending on how we carry out oversight. So, let us look at our priority and do real oversight and not witch-hunt and in that regard because I am seeing we are almost 10 minutes past Statements Hour and there is a motion that is coming, I want to direct that the Clerk of the Assembly write a letter to the Department of Education through the County Secretary that, on Thursday 25<sup>th</sup> March 2021 the CEC in charge of Education, the CEC for Finance and there Chief Officers appear before the General Oversight Committee with the Questions that were raised by Hon. Guya plus an IFMIS statement of the payment done so far because that is where we will know the exact payment that has been done. That must be done latest tomorrow 9.00 a.m. where the letters should be with them.

**The Speaker** (Hon. Oraro): Yes Hon. Olwal.

**Hon. Olwal:** I want to inform your office. Yesterday I requested extension of time for the two Bills my committee is handling on the basis that we are still conducting Public Participation which is still going on up to 19<sup>th</sup> March 2021. We were supposed to bring the report by 18<sup>th</sup> March 2021 but due to logistical hitch and the public participation that is still going on up to 19<sup>th</sup> March 2021, we were requesting extension for a two weeks in order to bring a comprehensive report. I was to bring the answer today on the same.

**The Speaker** (Hon. Oraro): Hon. Chair I think let us adhere to our Standing Orders. If we agree once an item has been committed to your House Committee then work on it. If you were supposed to come on 18<sup>th</sup> March 2021 you still come with a progress report and request for extension and the Members will agree or disagree. Standing Orders No. 41 (2) (d) gives you the authority to stand and present what your committee is doing. I hope that you stand guided.

**The Speaker** (Hon. Oraro): Next Order!

## MOTION

### REPORT ON THE AD HOC COMMITTEE INVESTIGATING LAND TASKFORCE

BY HON. BEATRICE ODONGO – CHAIRPERSON

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

**Hon. Beatrice Odongo:** Thank you Mr. Speaker and Hon. Members. Allow me to take the opportunity to present the long overdue report from the Ad Hoc committee that was formed by this House late last year.

**REMARKS BY THE CHAIRPERSON AD HOC COMMITTEE**

Mr. Speaker and Hon. Members, I feel greatly privileged and honoured to place before this August House the report of the Ad hoc Committee constituted to compel, investigate/ interrogate the Executive to submit the report of Land Taskforce constituted by H.E the Governor to initiate investigations into present and historical land injustices within Kisumu County. The committee adopted the procedures regulating the conduct of the Assembly as provided for in our Standing Orders

**CONSTITUTIONAL AND STATUTORY OVERSIGHT OF THE COUNTY ASSEMBLY AND ITS COMMITTEES**

Mr. Speaker and Hon. Members. The County Assembly and its committees draw their Constitutional mandate to oversight the Executive and other County executive organs from Article 185 (3) of the Constitution of Kenya, 2010 which states, 'A County Assembly, while respecting the principles of separation of powers, may exercise oversight over the County Executive committee and any other County Executive organ.' Further, Article 195 (1) gives a County Assembly or any of its committee's power to summon any person to appear before it for the purpose of giving evidence or providing information.

Secondly, under section 14 (1) (b) of the County Governments Act, 2012, a County Assembly, may establish committees in such manner and for such general or special purposes as it considers fit.

Thirdly, under the County Assembly of Kisumu Standing orders, order 174 confers committees with the powers and privileges bestowed on the County Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.

**FORMATION OF THE AD HOC COMMITTEE**

Mr. Speaker and Hon. Members. Pursuant to County Assembly of Kisumu Standing Orders, Order 41 (2) (b), Hon. Seth Okumu raised a statement in this House on the task force that was constituted by H.E The Governor vide a gazette Notice No. 3445 dated 13<sup>th</sup> April 2018 and gazette Notice No. 12094 dated 22<sup>nd</sup> January, 2018 to investigate into irregular, illegal and multiple allocation of public land within Kisumu County and make a report on the same. (see Annex I)

The statement was committed to the committee on Planning, Industrialization and ICT to inquire, investigate and report the findings to the House. The Committee tabled a progress report on September 1, 2020. However, the Hon. Members of the County Assembly debated and resolved that the findings of the committee was not adequate thus, compelling the House to resolve that the statement urging the County Executive to submit the task force report on the investigation of

irregular, illegal and multiple allocation of public land within Kisumu County be committed to an Ad hoc committee. (see Annexes II)

#### MEMBERS OF THE AD HOC COMMITTEE

- |                         |                  |
|-------------------------|------------------|
| 1. Hon Beatrice Odongo  | Chairperson      |
| 2. Hon. Seth Kanga      | Vice Chairperson |
| 3. Hon. George Olwal    | Member           |
| 4. Hon. Kenneth Onyango | Member           |
| 5. Hon. Seth Okumu      | Member           |

#### SECRETARIAT

The following Officers were seconded to provide secretarial, technical and other support services to the committee

- |                        |                   |
|------------------------|-------------------|
| 1. Mr. Ouko Boaz       | Committee Clerk   |
| 2. Mr. David Ochieng   | Secretariat       |
| 3. Mr. Austine Ochieng | Secretariat       |
| 4. Mr. Bill Otieno     | Legal Council     |
| 5. Mr. Zablon Otiende  | Hansard           |
| 6. Mr. William Ogada   | Serjeant- at-arms |

Mr. Speaker and Hon. Members,

In pursuit of this findings, the Committee invited the following officers of the County Government to appear before it with relevant responses on the issues raised:-

1. The Chairperson, Task force Committee on Land – Kisumu County
2. The County Secretary – County Government of Kisumu
3. The County Executive Committee Member (CEC) Lands, Physical Planning and Urban development.

Vide letters Ref; CAK/AD HOC/COMM/ADM/INVI/2020, (1), (2) and (3), all dated September 8, 2020, inviting the three Officers to appear before the committee on September 14, 2020. The meetings were staggered to two sessions so that the Chairperson, Taskforce Committee to appear at 9.00 am through to noon, while the County Secretary and the County Executive Committee Member (CEC) Lands, Physical Planning and Urban Development to appear at 2.00 pm for interrogation and submission of the following information:-

1. Date of appointment of the Taskforce
2. Terms of reference of the Taskforce
3. Reporting and lapse of date of the Taskforce
4. Approach the Department has taken to ensure completion and submission of this report

5. Financial implication of the exercise
6. Any other relevant documentation with regard to the matter.

#### TERMS OF REFERENCE

The committee adopted its terms of reference as passed in the statement which was to investigate and interrogate *inter alia*

1. Whether the Taskforce undertook the investigations
2. If yes, whether the report was done
3. Why the same report was / has never been forwarded to the County Assembly for scrutiny and adoption.
4. Whether the Taskforce still exist or it was disbanded

#### WORKPLAN

The committee developed a work plan including schedule of meetings with:-

1. The Chairperson, Taskforce committee on land
2. The County Secretary – County Government of Kisumu
3. The County Executive Committee Member (CEC) Lands, Physical Planning and Urban Development
4. Report writing retreat
5. Tabling of the report

#### INVESTIGATION / INTERROGATION AND SUBMISSION OF LAND TASKFORCE REPORT

Members of the Committee converged for a meeting on 21<sup>st</sup> September 2020, at Mega Plaza, 9th floor, at the County Assembly of Kisumu boardroom as per the schedule, and at around 10.00 am, the following members of the Land Taskforce team arrived and were ushered in for the meeting:-

- |                            |                  |
|----------------------------|------------------|
| 1. Mr. Joseph Okeyo Obiene | Chairperson      |
| 2. M/s Pamela Ogembo       | Vice Chairperson |
| 3. Dr. Kennedy Hongo       | Member           |
| 4. Mr. Fredrick O. Onyango | Member           |

In accordance with the powers conferred to County Assemblies by the Constitution of Kenya 2010, under Article 195, the Ad hoc Committee examined / interrogated the team on oath and details to confirm their true identity were obtained in the Gazette Notice No. 12094 dated 22<sup>nd</sup> January, 2018, Gazette Notice No. 3445 dated 3<sup>rd</sup> April 2018, copies of their appointment letters as Members of the Taskforce and confirmation of their National Identity Cards. (see Annexes III)

The Chairperson upon taking oath confirmed to the committee that the taskforce was formed in October 2017 and the position of the Chairmanship was held by Mr. George Nyambune Weda , and the members of the Land Task Force Committee were constituted as follows:-

1. George Nyambune Weda	Chairman
2. Nicholas O. G. Migot	Secretary
3. Kenneth Oduor Amondi	Member
4. Doris Ombara	Ex- official
5. Edris Omondi	Member
6. Kennedy Hongo	Member
7. Fredericks Onyango	Member
8. Joseph Okeyo Obiene	Member
9. Kennedy Odongo	Member
10. Mercy Njamwea	Member
11. Domtila Ghati	Member

The objective of the Task Force was:-

1. To produce a report that will guide the County Government of Kisumu In collaboration with the National Land Commission (NLC) reposses, recover illegally allocated public land, institutional houses, leases and estates etc within Kisumu County
2. To review past Task Force reports
3. To restore order in the land allocations and safeguard public and private land
4. To advice the County Government of Kisumu on how to create a County Land Bank (CLB)
5. To look into historical land injustices within Kisumu County
6. To identify and advise on effective management of land rate
7. To look into private leases within Kisumu County

To achieve the above objectives, the Task Force developed the following terms of reference:-

#### Terms of Reference

1. To examine and inquire into the allocations and or multiple allocations of public land or lands to private individuals; groups or corporations dedicated or reserved for public purposes in Kisumu County.
2. To collect and collate evidence and information available relating to the nature, causes and extent of unlawful or irregular allocation of such lands within Kisumu County.
3. To identify and list all lands (including beneficiary allottees, persons , groups or corporations) unlawfully and / or irregular allocated/acquired, or forcefully occupied, specifying the current and subsequent particulars and date of allocation.
4. To establish the nature, extent of individual and identification of public officers and any other person in the irregular appropriations and allocation of public land, and recommend action against such persons.

5. To recommend measures to restore order and advise on security interventions that may be required for the occupiers in relation to the allocations.
6. To examine the historical contention between the local communities and the current allottees/occupiers within Kanyakwar area, Kogony, Kibos, Kajulu, Dunga etc., recommend actions to resolve the issues if any.
7. To recommend measures to be put in place to streamline allocation of public land within Kisumu County.
8. To carry out any other inquiries which in the opinion of the Task Force is necessary in unravelling the irregular land allocation or help in resolving land related conflicts within Kisumu County.
9. To incorporate all County Government of Kisumu land pending court cases.
10. To identify and advise on Land Rates Management within Kisumu County.
11. To convert titles whose leases have expired to County Government of Kisumu?

While performing its tasks, the Task Force committed to adhere to the following guiding principles:

1. Conduct investigations professionally, be unbiased, be fair, be just, be equitable, be participatory and uphold other constitutional principles that govern land sector.
2. Prepare a detailed work plan indicating milestones and timelines.
3. Develop a prioritized matrix, clearly categorizing the immediate, medium and long-term reforms and budgetary requirements.
4. Review any document relevant to its mandate.
5. Hold consultative forums with Government officials, professionals and the general public.

#### Reporting

The Task Force shall be reporting, advising and keeping apprised, and without prejudice to generality of the foregoing, make progress report to the Governor of County Government of Kisumu after every fourteen (14) days.

#### REORGANIZATION OF THE TASKFORCE MEMBERSHIP

The Chairman further stated that since the Task force was not able to accomplish the assignment within the proposed period of 30 working days, The Executive Committee resolved to extend their term to 3<sup>rd</sup> December 2018, and that extension was done through a Gazette Notice no. 3445 of 13<sup>th</sup> April 2018, where the membership was reorganized and the Chairman, Mr. George Nyambune Weda was degazetted and replaced by Mr. Joseph Okeyo Obiene as below;

- |                                |            |
|--------------------------------|------------|
| 1. Mr. Joseph Okeyo Obiene     | Chairman   |
| 2. Adv. Kenneth Oduor Amondi   | Member     |
| 3. James Goro (later resigned) | Member     |
| 4. Ms Dorice Ombara            | Ex-officio |

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5. Mr. Nicholas Migot	Secretary
6. Mr. Edris Omondi	Member
7. Dr. Kennedy Hongo	Member
8. Ms Mercy Nyamwea	Member (NLC Nairobi)
9. Mrs. Domtila Gati	Member (NLC Kisumu)
10. Mr. Fredricks Otieno Onyango	Member
11. Mr. Kennedy Odongo	Member

The Chairperson Land Taskforce, Mr. Joseph Okeyo Obiene confirmed to the Adhoc Committee that the new team executed their mandate in accordance with the Constitution of Kenya 2010, other relevant statutes and the laid down principles that governed the assignment. After which, the Secretary appended his signature on the report and handed it to the CECM Lands, Housing, Physical Planning and Urban Development for further action. However, the team informed members of the Committee that their dues had not been fully settled and plead for the intervention of the Committee and the House so that their outstanding balances can be paid.

Submissions of the County Secretary, Mr. Godfrey M. Kigohi and the CECM Lands, Housing, Physical Planning and Urban Development, Mr. Dixon Obungu.

The two officers appeared before the committee on 5<sup>th</sup> October 2020, in the County Assembly Boardroom, 9<sup>th</sup> floor, Mega Plaza building and were examined / interrogated on oath and their identity ascertained by the production of their National Identity Cards.

The County Secretary acknowledged the receipt of the invitation letters from the Assembly and responded to the issues raised therein in his letter dated 17<sup>th</sup> September 2020. However, he lamented that the matter under discussion took place before he assumed the office of the County Secretary and therefore relied heavily on information obtained from the relevant officers. (See Annex IV)

The CECM for Lands, Housing, Physical Planning and Urban Development confirmed that the information given by the County Secretary in his letter dated 17<sup>th</sup> September 2020 is correct and was done after consultation. However he pointed out that there are few issues to note:-

That the official handing over of the Task force report to the Governor who is the appointing authority has not been done

That the Office of the CECM for Lands, Housing, Physical Planning and Urban Development holds three reports which should be merged together from:-

1. Mr. George Nyambune Weda, the first Chairman of the Task force
2. Mr. Joseph Okeyo Obiene, the second Chairman of the Task force and
3. The Office of the National Land Commission,

That there were two different Office bearers both in the County Secretary and CECM Lands, Housing, Physical Planning and Urban Development Offices during the making of the reports.

That at the onset, The Task force committee was appointed under Governance and in FY 2018/19, the task force budget was transferred to the Department of Lands, Housing, Physical Planning and Urban Development and since then the Department has not factored the budget for approval by the Assembly for payment.

That there is an outstanding balance of Kshs 7 million to be paid to members of the Task force.

#### COMMITTEE FINDING

The Committee during its interrogation with the Land Taskforce Committee constituted by the Governor and in adjudicating its mandates noted that the following methods were used to grab land falling under this category.

1. Widespread abuse of presidential discretion with regard to unalienated urban land. This was undertaken during the tenures of both head of states making grants to land to individuals without any consideration to the public interest, for political reasons, and without proper pursuit of legal procedures, whilst there was also extensive illegal allocation by both former presidents of alienated land (viz, land which they did not have legal power to allocate).
2. Various Commissioners of Lands had made direct grants of government land without any authority. Forged letters and documents were used to allocate land in numerous instances, with many records at the Ministry of Lands and Settlements having been deliberately destroyed. Often, land was sold by grantees without any adherence to the conditions laid down by letters of allotment, and many illegal titles to public land were transferred to third parties, often State Corporations, for massive sums of money.
3. Land compulsorily acquired, was illegally allocated to individuals and companies, and then often sold to third parties, whilst land reserved for public purposes such as schools, playgrounds, and hospitals etc. had been sold off in blatant disregard of the law by both the Commissioner of Lands and numerous local authorities.
4. Land around riparian sites have been illegally allocated.
5. The Committee noted that there a series of legislation that require to be harmonized which bring confusion when it comes to enforcement of legal parameters regarding Land matters.

#### RECOMMENDATIONS

Based on the submissions of the CECM Lands, Housing, Physical Planning and Urban Development, the Committee recommended as follows;

1. THAT, the CECM Lands, Housing, Physical Planning and Urban Development to merge the three reports, follow the legal / required procedure up to handing over the official / final document to the Ad hoc Committee for onward submission to the Assembly.

2. THAT, the CECM Lands, Housing, Physical Planning and Urban Development to involve the Department of Lands to scrutinize the document tabled to validate ownership of land indicated in the document.
3. THAT, key department to consider developing policies and legal frameworks that curb irregular and illegal acquisition of public land and stiffer measures and penalties be instituted on culprits including revocation of titles and repossession of illegally acquired parcels of public land.
4. THAT, the County Government should consider interrogating the Ndungu Commission Report consequently look at the National Land Policy with a view of implementing and enforcement of recommendations contained therein.
5. THAT, the Lands Department should consider Computerization of Land Register and the restoration of Kisumu land registration system. Changes in land transfers should be authorized by both the County and the National Lands Policy to ensure validation is achieved. This must go beyond the digitizing of the existing system, as proposed in the National Land Policy, and will involve extensive investigation into the title deeds that are currently registered.
6. THAT, the relevant Line Department in liaison with the Department of Land should consider establishment of Land Titles Tribunal to embark upon the process of revocation and rectification of titles in the county.
7. THAT, the technical and personal capacity of staff in the relevant ministries and agencies should be enhanced so as to competently and effectively deal with land matters.
8. THAT, the CECM Lands, Housing, Physical Planning and Urban Development should undertake inventory of public land in the County because most Ministries Departments and Agencies (MDAs) cannot give a comprehensive account of the parcels of land they hold.
9. THAT, at present there are almost 40 legislations dealing with land matter. The Department should consider harmonization of legislation dealing with land.
10. THAT, land recovered from the public be utilized to establish decent and affordable housing and upgrading of informal settlement.
11. All Gazetted Public Land should be resurveyed for validation and rectification.

## CONCLUSION

The land-grabbing phenomenon differs in important respects from the land grabs currently attracting international attention in that it has been Kenya's elites, as well as international interests, amassing land, and doing so at great public expense. The focus on publicly held land as a form of patronage for politically connected individuals from within both the public and private sectors – and from local to national levels – is largely due to an exhaustion of traditional forms of patronage in light of increased international monitoring of donor funds.

Public land, including state corporation/parastatal and ministry land, trust (community) land, and protected areas (including forests, wetlands, and game and nature reserves) that are meant to be held in trust by the Government under the principle of the public interest have been parceled out indiscriminately to members of Kenyan elites, who have benefited through the accumulation of land and wealth and through relationships with foreign interests on whose behalf they have covertly acquired land. They have done this by systematically circumventing or distorting the processes and laws in place to protect these lands – notably letters of allotment and excisions of protected lands – and by abusing public offices and positions to illegally/irregularly allocate or acquire land for personal gain or patronage, without consideration of the public interest.

Mr. Speaker and Hon. Members, nevertheless, a number of actions could assist in rebuilding confidence in Kenya’s tenure system and in those responsible for safeguarding it, including:

- a) Reasoned, consistent and mindful implementation of the Ndung’u Commission Report’s recommendations and the new National Land Policy, taking into account the distinctions between the victims and benefactors of land grabbing;
- b) Efficient and democratic establishment of the structures required by the National Land Policy and now supported by the new Constitution to ensure the representation of all stakeholders and their interests in redressing Kenya’s currently skewed land ownership patterns;
- c) The introduction of corporate responsibility for national and international companies involved in illegal/irregular land acquisition through mandatory title deed searches back to the instance of first registration, and stronger checks and balances on corporate land acquisition; and
- d) The reconciliation of the National Land Registry through investigation into and validation or revocation of existing documentation and an extensive surveying of public lands within the framework of the National Land Policy, as recommended in the present report.

Kenya’s political balance under the promulgated Constitution of Kenya 2010 is fragile with regards to many issues. The violence following the 2007 elections was indicative of the smouldering tensions among Kenyans, in factions divided along political and/or ethnic lines. Land is the fuel that has the potential to set this conflict alight once again.

Mr. Speaker and Hon. Members. Pursuant to the provision of section 14 (1) (b) of the County Government Act, 2012, the Ad hoc Committee implores this August House considers adopting this report of the Committee and that of the document attached herewith is the final/ official document of the Land Task force report on recovery of illegal, irregular and multiple allocation of public land in Kisumu County presented to the Ad hoc committee for tabling in the County Assembly for debate.

Thank you Mr. Speaker to call upon the Leader of Majority to second?

**Hon. Samo:** Point of information Mr. Speaker. Mr. Speaker it has come to my attention that a number of Members do not have these copies and it is a very serious report.

**The Speaker** (Hon. Oraro): Hon. Beatrice Odongo, were the copies shared?

**Hon. Odongo:** Yes it was shared on the WhatsApp platform and then others have been issued.

**Hon. Samo:** The ones which have been given are few and this is a very serious report. The Chairperson has done a good work and we need to be part of it.

**Hon. Odongo:** Mr. Speaker I want to confirm to this House that as a committee we produced 48 copies not unless the Sergeant –at-Arms can tell us where the other copies have gone to.

**The Speaker** (Hon. Oraro): I am informed that it is being arranged but I think the main report of the Ad Hoc committee is in the WhatsApp forum. Is that what you said Hon. Beatrice.

**Hon. Odongo:** Mr. Speaker they should look at the document in our WhatsApp forum.

**The Speaker** (Hon. Oraro): Are they all in the forum?

**Hon. Beatrice Odongo:** No this is the one that is in the forum.

**The Speaker** (Hon. Oraro): That is what I said. Which one are you presenting right now? Are you presenting this one or the other one?

**Hon. Beatrice Odongo:** I am presenting this.

**The Speaker** (Hon. Oraro): So let us continue because you are presenting this and it is the forum where everybody can access as they prepare copies of this.

**Hon. Samo:** Mr. Speaker, what the Chair has said which is very correct that these two documents walk together. If they walk together then you refer to this. I kindly request that the Serjeant –at-Arms would then be able to do these copies fast enough if they are to walk together because you have to refer.

**The Speaker** (Hon. Oraro): What happens if you sent the other ones and you didn't send this? Because every Member should have the copies.

*(The Clerk at the table consulting with the Speaker)*

**The Speaker** (Hon. Oraro): Yes Hon. Pete.

**Leader of Minority** (Hon. Oiko): Mr. Speaker, we normally get the document when we enter the plenary and the table of the Sergeant –at-Arms is very clean.

**The Speaker** (Hon. Oraro): How many people are not having the document? Can you make arrangement so that you sit next to the person having the document so that we proceed as we wait for the documents!

**Hon. Agolla:** Mr. Speaker with your indulgence this motion and this report is very sensitive and we cannot read it now thereafter debate on it. Kindly if you can allow us to defer this report and we are given copies to read so that we can present it in the next sitting.

**The Speaker** (Hon. Oraro): Hon. Agolla, I have seen the number that does not have the document and I am seeing that most of the Members have the document.

**Hon. Samo:** Mr. Speaker we are many; even Hon. Olima has walked out but he doesn't have a copy.

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

**The Leader of Majority** (Hon. Kenneth Onyango): Mr. Speaker you did confirm that this document is in our WhatsApp group and that is allowed by our traditions in this House that quite a number of times documents are posted in soft copy and that becomes a document of the House. So, Mr. Speaker, I would want to imagine that if this document was posted on our WhatsApp group early enough then that should have allowed us an opportunity to go over it. None the less because of the interest this matter is eliciting if in your considered opinion you find it appropriate that it is deferred then, that would be good enough but I don't think it would be on the basis.

**The Speaker** (Hon. Oraro): Leader of Majority, I believe that, you are just saying the same thing. The reason why each and every Member has an iPad is because we want to go paperless. I know this is a report from the Taskforce Committee and this is a report from the Ad Hoc committee. There is no harm scanning this document and putting it in the website. The fact that it is a different report from the Ad hoc Committee does not deter you from scanning it and putting it in the right forum. So, what I meant is that as at now, I saw this one in the forum; the one from the Ad hoc Committee and I have not seen the one from the Taskforce in the forum. I am informed that around 25 copies have been brought into this House. I have also confirmed that the person photocopying them is also working on them which I don't know why they are struggling to photocopy yet they could have just scanned it and sent to the forum.

So, by the indulgence of the House, I was saying that you can share the report with the person next to you because right now, I am seeing the presenter is concentrating on this one so that by the time the report comes you can get the people who don't have it to get.

**Hon. Samo:** Mr. Speaker over the weekend Abala Wanga made a very outrageous remarks in a funeral in Kolwa and he said that the former Councilors who were seated in this funeral are the same people who stoles land. By extension he was referring to people like us and Hon. Misachi who were Councilors by then. If he says that we have stolen land and then a report of the same

land is here and we don't have it and maybe my name is mentioned here. I think we are just requesting if you can give us time to have these copies then we can proceed with the discussion.

**The Speaker** (Hon. Oraro): Hon. Samo I am in agreement with you. What I am saying is that there is no problem of deferring the motion but there is a way of introducing that matter. You don't just wake up and say that we defer the motion.

**Hon. Odongo:** Mr. Speaker, I have a humble request to the Members that if they could just allow me to finish our report because this was an attachment of the three reports that the County Government said is in their possession.

**The Speaker** (Hon. Oraro): Hon. Members allow me to direct that let Hon. Beatrice make the presentation then I shall not propose debate. So make sure the report reaches every Member and it becomes the first item in the next sitting when Members have gone through the report. Proceed.

**Hon. Odongo:** Thank you for the guidance Mr. Speaker.

*(The Temporary Speaker alternates the Hon. Speaker)*

**The Leader of Majority** (Hon. Onyango): Thank you Chair. Madam Speaker probably you need to give us some directions because the Speaker alluded to the fact that he will not put the question. So, in that respect I would wish that I give my response tomorrow when the matter resumes.

**The Temporary Speaker** (Hon. Inviolata): As per your earlier request and pursuant to the provisions of Standing Orders No. 30 which states that;

*“Resumption of interrupted Business*

*Any debate interrupted under this Part shall on coming again before the County Assembly or the Committee, be resumed at the point where it was interrupted and any Member whose speech was so interrupted shall have the right to speak on such resumption for the remainder of the time available to him or her but if such Member does not avail himself or herself of this right, his or her speech shall be deemed to have been concluded.”*

According to that, this motion shall be resumed tomorrow.

**Hon. Samo:** Mr. Speaker before you rule towards that direction I wanted to say that the Leader of Majority has seconded the motion as it has been brought forward by the chairperson. Before we do the resumption of business tomorrow or in the next session which is tomorrow.

**The Temporary Speaker** (Hon. Inviolata): Yes Hon. Beatrice.

**Hon. Odongo:** Point of Information.

**The Temporary Speaker** (Hon. Inviolata): Yes Ad hoc Committee Chairperson.

**Hon. Odongo:** Madam Speaker I believe that the Leader of Majority has stated clearly that he is not going to second because the Speaker had earlier ruled that we continue with the business tomorrow after everybody has gotten the document.

**The Temporary Speaker** (Hon. Inviolata): Hon. Leader of Majority kindly second and your submission will be done.

**The Chief Whip** (Hon. Misachi): Madam Speaker, I believe that the Leader of Majority will resume the floor tomorrow to second the motion and then we will go on to discuss it so that any person will contribute. Thank you.

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

### ADJOURNMENT

**The Temporary Speaker** (Hon. Inviolata): There House stands adjourned to tomorrow Thursday 18<sup>th</sup> March 2021 at 2.30 p.m.

*(House rose at 4.35 p.m.)*

*Addendum*

**Hansard Team**

*Zablon Otiende - Senior Hansard Reporter (In-charge)*

*Edward Odanga - Reporter*

*Fanuel Okode - Reporter*

*Patrick Okoyo - Reporter*

*Jesca Otieno - Reporter*

*Dennis Onyango - Reporter*

*Jacklyne Otieno - Reporter*