

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

SECOND ASSEMBLY – FIFTH SESSION

Wednesday, 19th May, 2021

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

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYERS

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

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

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Good afternoon Honourable Members, I have to bring to your attention of the communication from the Kisumu County Covid-19 Committee. They have sent a request that we need to sensitize the public and our electorates that there is worrying trend of Covid 19 infection and the rates is alarming. As an Assembly, let us adhere to the Ministry of Health Protocols. Ensure that you properly put on your masks to cover both your nose and mouth. If you are using the portable microphone, ensure that it is sanitized before and after use. Let us sensitize the public because the Covid-19 infection rates are going higher and higher. I believe that you saw this in the daily newspaper of Nation.

Two, tomorrow Thursday and Friday, and this is to the Sectoral Committees that had not met with their line Departments. The schedule is available and I hope it was shared in the forum and I will share it again on our WhatsApp. Please ensure that you meet the CECs and do your report to the

Budget and Appropriations Committee and please get serious with the interrogation with the CEC members.

On the same note, I had communicated that the Public Participation that was scheduled for 20th May is postponed and the new dates are to be communicated and it shall be done at the Ward level. Thank you.

The Speaker (Hon. Oraro): Next order

MOTION

LABOUR AND SOCIAL WELFARE COMMITTEE REPORT ON THE POSITION OF MR. ZACHAEUS OKOTH OKETCH AND THE MANAGEMENT OF GULF AND NYANAS WATER COMPANIES

BY

HON. RASHID MIRUKA

CHAIRPERSON, LABOUR AND SOCIAL WELFARE COMMITTEE

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

Hon. Miruka: Mr. Speaker and Hon. Members, pursuant to the provisions of County Assembly of Kisumu Standing Order No. 41 (2) (b), Hon. Johnson Guya (MCA – South East Kisumu Ward) raised a Statement during the Statement Hour in the House Session on Tuesday, 6th April 2021 (Annex i) seeking responses from the Chairperson of the Committee on Labour and Social Welfare regarding the position of Mr. Zacheus Okoth Oketch as the Chief Officer for Water and Sewerage Services and the Secretary to the Taskforce on the Management of Rural Water Supplies and the Management of Gulf and Nyanas Water Companies.

It is on the backdrop of his statement that the Hon. Member further sought leave for the Speaker to instruct the Committee on Labour and Social Welfare to inquire and investigate into the matter.

In accordance with Article 185 of the Constitution of Kenya 2010, section 8 of the County Governments Act, 2012 read together with Standing Order No. 193 of the Kisumu County Assembly Standing Orders, that the Speaker directed the Labour and Social Welfare Committee to take up the matter and present a report before the House on the position of Mr. Zacheus Okoth Oketch for Water and Sewerage Services and the Secretary to the Taskforce on the Management of Rural Water Supplies the Management of Gulf and Nyanas Water Companies.

LEGAL FRAMEWORK, AND MANDATE OF THE COMMITTEE

The Sectoral Committee of Labour and Social Welfare is established under Standing Order No. 193 of the Second Schedule, and is mandated pursuant to Standing Order No. 193(5) (a),(b),(c),(d),(e),(f) and (g) and to *investigate all matters relating to labour, trade union, social welfare, human resource planning and development.*

The Composition of the Committee

The Committee as currently constituted comprises of the following Members:

1. Hon. Rashid Miruka - Chairperson
2. Hon. Consolata Ollows - Vice Chairperson
3. Hon. Benny Pete Oiko - Member
4. Hon. Jennipher Obonyo - Member
5. Hon. Prisca Misachi - Member
6. Hon. Florence Olang'o - Member
7. Hon. Samson Ameso - Member
8. Hon. Samuel Dede - Member
9. Hon. Lynnette Carren Muga - Member
10. Hon. Vincent Jagongo - Member
11. Hon. Inviolata Adhiambo - Member
12. Hon. Habil Nyasuna - Member
13. Hon. Julius Genga - Member
14. Hon. John Atieno Otieno - Member
15. Hon. Jacktone Ogendo - Member

Secretariat

1. Mr. Nelco Sagwe - Committee Clerk
2. Ms. Elizabeth Achieng' - Clerk Assistant
3. Mr. Dominic Muinde - Legal Counsel
4. Ms. Jackline Atieno - Hansard
5. Ms. Rispa Aumah - Sergeant-at-Arms

ACKNOWLEDGMENTS

The Committee wishes to thank the Speaker of the County Assembly of Kisumu and the Clerk of the County Assembly of Kisumu for the goodwill extended to the Committee to fulfill its mandate and carry out its activities.

The Committee also appreciates the role and contribution of all the technical team who have been instrumental during the whole process culminating in the production of this report.

I therefore humbly submit this report for consideration by the House on behalf of the Committee.

BASIS OF INVESTIGATION

Mr. Speaker and Hon. Members, the Committee resolved to investigate on the position of Mr. Zacheus Okoth Oketch as the Chief Officer for Water and Sewerage Services and the Secretary to the Taskforce on the Management of Rural Water Supplies within Kisumu County and the Management of Gulf and Nyanas Water Companies basing facts from the Statement raised in the House. The elements of this investigation were as follows;

1. Why has the Chief Officer, Mr. Zacheus Okoth Oketch been redeployed to this amorphous entity in a manner likely to suggest that he has been demoted from his former position.
2. Was the Kisumu County Public Service Board involved in the redeployment process?
3. Was the Officer having any disciplinary cases that prompted the redeployment?
4. What is the role of CEC and Chief Officer Water, Environment and Natural Resources in the management of Gulf and Nyanas?
5. How were the 40 Casuals staff and one permanent staff recruited at Nyanas and Gulf and what role did the County Public Service Board play in the above recruitment?
6. Are the recruited staff on County payroll?

Consequently, the Clerk of the Assembly notified the County Secretary, the Kisumu County Public Service Board, the Department of Water, Environment and Natural Resources and Kisumu Water and Sewerage Company to provide a detailed response to the attendant demands of the Statement raised by Hon. Johnson Guya vide letters Ref. CAK/CGK/PSB/VOL.IV (08), CAK/CGK/PSB/VOL. IV (09), CAK/CGK/ADMIN/VOL.IV (61) and CAK/CGK/ADMIN/VOL.IV (62) (Annex ii).

LEGAL FRAMEWORK OF THE INVESTIGATION

Mr. Speaker and Hon. Members,

The Committee was guided in its work by the following legal instruments:-

1. Article 183 of the Constitution of Kenya, 2010.
2. Section 45(5) of The County Government Act, 2012 that gives the Governor the powers and the authority of re-assigning any Chief Officer.
3. Section 59 (b) of the County Government Act, 2012.
4. Section 36 (1), and (2) of The County Government Act, 2012
5. Section 4 (1), (2) and (13) of the Water Act, 2016.
6. The County Assembly of Kisumu Standing Order No. 193 (5) and
7. The Second Schedule of the County Assembly of Kisumu Standing Order.

FINDINGS

Mr. Speaker and Honourable Members, the Committee made the following findings:

1. That the Terms of Service for Mr. Zacheus Okoth Oketch has not been interfered with as he still remains the Chief Officer for Water and Sewerage Services. He is also assigned to oversee reforms in Gulf and Nyanas Water Companies (Secretary to the Taskforce on the Management of Rural Water Supplies). Mr. Zacheus still reports to the County Executive Committee Member Water, Environment and Natural Resources and also to the task force work on the Management of Rural Water Supplies within Kisumu County. The mentioned officer was neither deployed nor was he demoted.
2. That in line with Section 45(5) of the County Government's Act, the special assignment given to Mr. Zacheus Okoth Oketch was made at the Executive level and not by the Kisumu County Public Service Board (See Annex iii). Re-assignment of duties is normal in the Government System and with the area of expertise of the employee, the Governor in his wisdom felt that the employee's expertise in a specialized area hence the reassignment (See Annex iv).
3. That the assignment is neither a deployment nor a disciplinary action. The purpose of the reassignment was to institute reforms in Gulf and Nyanas Water Companies and to ensure efficient service delivery in the sector. The best person to spear head this was none other than the Chief Officer for Water and Sewerage Services.
4. That the Management of Rural Water Utilities in Kisumu County was handed over to Kisumu Water and Sewerage Company in 2014 as per a Memorandum of Understanding (MoU) between the County Government and the Water Service Providers. The MoU gave the Chief Officer of Water and Sewerage the mandate to be a signatory of the account of both Nyanas and Gulf Water Companies together with the Managing Director and Finance Manager of KIWASCO. The role of the County Executive Committee Member and the Chief Officer Water and Sewerage Services in the Management of Gulf and Nyanas Water Companies are:

County Executive Committee Member

- a) Responsible for the development and provision of water and sewerage services within the County.
- b) Formulate and periodically review county policies, strategies and plans for the development and provision of water services
- c) On behalf of the County government put in place and maintains measures and arrangements to implement and give effect to the Constitution, national law and national standards on the provision of water and sewerage services.
- d) Coordinate and oversee the development and provision within the County of water and sewerage services.

- e) Mobilise financial and other resources for the development of county public waterworks for provision of water and sewerage services.
- f) Put in place measures to secure the achievement of universal access to basic water and sanitation services.

Chief Officer, Water and Sewerage Services

- a) Oversee development of legal framework for sustainable management of rural water supplies in reference to existing regulatory instruments.
 - b) Oversee awareness creation to key stakeholders on the legal framework and other relevant regulatory instruments for management of rural water supplies.
 - c) Supervise and report on progress of implementation of regulatory instruments for management of rural water supplies.
 - d) Oversee winding up of Nyanas and Gulf Water Companies and handover their roles to KIWASCO.
 - e) Analyze the existing gaps to self-sustainability of all the rural water supplies with reference to the key indicators of sustainability, technical, financial and administration.
 - f) Undertake performance review of all water supplies that are currently under Nyanas and Gulf Water Companies with reference to the key indicators: Technical, Financial and Administration.
 - g) Make recommendations towards attainment of self-sustainability of all rural water supplies within the County.
 - h) Develop clear strategies, which include realistic time-frame towards self-sustainability all the water supplies currently under Nyanas and Gulf Water Supplies.
 - i) Analyse existing capacity gaps in sustainable management of rural water supplies and develop a training plan for the same.
 - j) Promote meeting of all rural water supplies and use of solar driven pumps.
5. That employment of staff at the Water Companies is guided by the HR manual where the management is fully responsible for all the exercise except for heads of department which is done by the Board of Directors (See Annex v : Copy of shortlisted applicants, Copy of secondment from KIWASCO Nyanas Water Company and Copy of internship offer).
6. That there is no permanent staff at Gulf and Nyanas Water Companies (See Annex v). The two water companies only have casuals and contracted workers.
7. That the total number of workers at Nyanas Water Company is 30; the casual workers are 18 in number while the contracted workers are 12 (See Annex vi).
8. That the total number of workers at Gulf Water Company is also 30; the casual workers are 22 in number while the contracted workers are 8 (See Annex vii).

9. That Nyanas and Gulf Water Companies are corporate and autonomous Companies. Therefore the staff are paid from own generated revenue and are not in the County payroll (See Annex v).
10. That there is delay in water bills especially in Nyakach Sub County thus affecting the clients and residents of the area.

Mr. Speaker Sir, the Committee realized that the owner of the statement implied that the position of Mr. Zacheus Okoth Oketch as the Chief Officer for Water and Sewerage Services is being interfered with. However, that is not the case as the terms of service of the mentioned officer are still intact.

The Committee also understood that there was no need to invite the Chief Officer for interrogation, as all the information gathered from various Departments were satisfactory. Had the mentioned officer been sacked or demoted or a petition raised, then the Committee would have invited him together with the involved Executive Department for an explanation over the same.

RECOMMENDATIONS

Mr. Speaker and Hon. Members, the Committee made the following recommendations:

1. THAT the County Assembly should strive to ensure positive ties with the Executive wing in order to achieve the full gains of Devolution.
2. THAT the much needed collaboration, cooperation and interdependence between the two arms should not interfere with the independence of each arm.
3. THAT there should be consistent communication between all the signatory bodies involved to avoid any conflicts or misunderstandings.
4. THAT the County Government of Kisumu should introduce more water projects and pipeline extensions to ensure the residents get access to clean and safe water supply across the county. This action will also help increase revenue for water utilities, and provide higher quality services at affordable prices.
5. THAT the residents of Kisumu County should honor their part of the bargain in payment of bills. Through this, the payment of the casual workers and contracted staff will be met on a regular basis.
6. THAT the County Government should also honor their part of the bargain in paying power bills that run water on a regular basis.
7. THAT an engineering study should be carried out in Gulf and Nyanas Water Companies to help define resource equipment for any rehabilitation and possible expansion.
8. THAT the County Government of Kisumu being an additional signatory of KIWACSO, should help track resources collected from various water operations.

Mr. Speaker and Hon. Members, aware that Kisumu Water and Sanitation Company Limited (KIWASCO) is an entity on its own, it should therefore be left to run its own affairs unless a complaint has been made to the County Assembly of Kisumu in form of a statement or a petition (and the complaint should consist of correct information).

CONCLUSION

Mr. Speaker and Hon. Members, the Committee would like to implore this House to deliberate and consider adopting this report. Thank you. May I call upon Hon. Priscah Misachi to second? Thank you.

The Speaker (Hon. Oraro): Senior Member.

Chief Whip (Hon. Misachi): Thank you Mr. Speaker. I rise to second the report that is before the House as read by the Chairperson. Thank you.

The Speaker (Hon. Oraro): Honourable Members, the Labour and Social Welfare Committee report on the position of Mr. Zacchaeus Okoth Oketch and the Management of Gulf and Nyanas Water Companies has been moved by the Chair and seconded by Hon. Priscah Misachi. As per our Standing Order, I want to propose a question for discussion of the report.

The Speaker (Hon. Oraro): Yes, Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Thank you Mr. Speaker. I stand to reject this report. I have never seen such a shoddy report. As I was listening to the Chair read through the report and there are a lot of anomalies. The Chair confirmed that the Gulf and Nyanas are autonomous corporations and yet he is asking the County Government to pump money to private entities. That is against the law. Private entities cannot draw from the Government coffers. The issue of this companies not having permanent employs is not true. As a PIC and PAC, we had investigated and we found out that they have employs seconded by KIWASCO and they are on permanent and pensionable terms. The Chair is alluding to the fact that, Nyanas and Gulf does not have any permanent employees.

Mr. Speaker, it also doesn't make sense to me why County Government is paying bills for a private entity. What happens is that when a corporate is not making profit they shut down. We are aware that the two companies are getting raw materials from KIWASCO. They get chemicals from KIWASCO and yet they are private companies. If they are getting chemicals from KIWASCO and they still expect County Government to pay their bills then where does that money go to?

Mr. Speaker, that report is incorrect. That report cannot be supported in this House. Look at the recommendations that Sectoral Committee is giving, they are irrelevant. They are not in line with what was asked by the House Committee. Mr. Speaker, based on that, I oppose.

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

Hon. Samo: Thank you Mr. Speaker. I am at pain to associate myself with this report. One, as a Kenyan, a father, son of this County. A time will come when our children will be working in these offices. The kind of information Hon. Guya was seeking and allow me to take you through. Why has the Chief Officer been deployed to this amorphous entity in a manner likely that he has been demoted in his position?

Mr. Speaker, today you are the Speaker. Assume that today you are in the system and we deploy you to work as a Clerk and you will be taking minutes, how will I explain this to the people of Nyahera? I have been walking to the Executive office every day, I had about four water projects in this Financial Year and I have never seen this person in the office because he has been redeployed to a small entity.

Mr. Speaker, all the contracts that this person signed were revoked and I am not saying because I have any interest, I am just thinking aloud, why were they revoked? I may not be able to substantiate that because they were fighting over things they know.

The Chair of this Sectoral Committee should be a very honest person. We need to fight for the rights of the people because that is why we were elected. If you are telling us that we are not going to call the Chief Officer to come and explain to us then, why are we a House of laws. The person we are talking about has been in Nairobi for two months. He is not working here. I do not support this kind of report and this pains me as a human being. We can all fight people in the offices but we cannot forget that we are all sons of some people and citizens of this community.

Mr. Speaker, this should be able to be rejected and a proper report be brought to this House. We must dig deep into this matter. The Chief Officer should be brought to this House and explain to us what happened.

Mr. Speaker, we have heard a lot of issues with Nyanas and Gulf. This matter was discussed in the Cabinet and I am privy to what is happening in Nyanas because my uncle is working there. How do you declare that somebody that has worked for the company for the last fifteen years is a casual staff? We investigated this matter in PIC and PAC and we know all these staff are seconded by KIWASCO.

Mr. Speaker, I want to request that the Sectoral Committee to delve in this matter and if they cannot then, let this matter be handled by the General Oversight Committee. As I sit down, the Chief Officer for Water is not in office. Look at the annex from the County Secretary. I now believe the County Secretary should not be in office. Thank you, Mr. Speaker.

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

Hon. Ngeta: Thank you Mr. Speaker. I rise to give my view on this report. I was keenly following the report as read by the Chair and I got lost when I heard that Mr. Okoth Oketch has been redeployed elsewhere. The report is not addressing the issues raised by Hon. Guya. What is

happening to the Chief Officer is very unfortunate. We are going to mess these people. They left some good jobs to help our county and now they are being frustrated. They are professionals in their lines of duty.

I want to urge Hon. Rashid that he needs to do thorough research before tabling such kind of report. This embarrassing report. Look at the last annex. Some Members failed to sign the report. I don't know what it shows. Let us do justice to the people of this County.

The Speaker (Hon. Oraro): Hon. Benny Pete Oiko.

Hon. Oiko: Thank you Mr. Speaker. The report before the House is presented by the Labour Committee where I belong and I participated in this report and some Members have come up to challenge the report. They are referring to a report that was handled by PIC and PAC. The committee was not a signed to go and look at the report by PIC/PAC. A resolution was made by the PIC/PAC report and the matter was referred to the EACC for investigation. That is how serious the committee did its work.

Members are saying that the person we are discussing is not in the office, the committee didn't know that. We relied on the statement that was raised here. We communicated to the Executive and they gave a response. We felt that the response was good enough and we could rely on. The question was, when this officer was being re-assigned, was the County Public Service Board in the know? The issue of the re-assigned is for the Executive and not the Board. We are again being told that the Governor has the powers to re-assign. What more do you want the committee to do?

There is no evidence that this man has been demoted. There is no evidence that he has been sacked. If you can give us evidence that he has been sacked or demoted then present it before the House. We have handled issues that were raised in this report. The report may not be pleasant to you, which is normal but produce more report to challenge what we have done. if you feel that the committee has not adequately addressed the issue which were raised in the Statement, that mis okey. The Speaker has the powers to give further direction. It was not the work of the committee to go and see the office the person has been deployed to. The picture we have is that the person is still working for the County Government of Kisumu as Chief Officer. His terms and conditions of employment are still intact.

If this report is not appealing, let further statements be raised by the Members so that the Labour Committee can go deep and investigate further. Thank you, Mr. Speaker.

The Speaker (Hon. Oraro): Yes Hon. Paul Okiri.

Hon. Okiri: Thank you Mr. Speaker. In your ruling today, I will beg that you don't put a question but based on the issues raised by the Members. I rise to oppose this report based on the recommendations of this committee. I want to refer you to page 10. That the County Assembly

should strive to ensure positive ties with the Executive wing in order to achieve the full gains of Devolution. This is irrelevant. Do we have any strain relationship with the Executive?

Mr. Speaker, may I take Members to No. 4. That the County Government of Kisumu should introduce more water projects and pipeline extensions to ensure the residents get access to clean and safe water supply across the county. This action will also help increase revenue for water utilities, and provide higher quality services at affordable prices. Is that recommendation addressing the statement?

Mr. Speaker, look at recommendation No. 6. That the County Government should also honor their part of the bargain in paying power bills that run water on a regular basis. The committee has decided to do what they were not told.

Mr. Speaker, we all know the responsibilities of the Chief Officer. I request that you give a ruling on this matter. Thank you.

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

Hon. Atieno: Thank you Mr. Speaker for giving me this opportunity to air my views on this motion. I want to remind the House that the issue of re-deploying staffs is not new and it has happened before. When we came to this government, we found the Chief Officers who were engaged by the first government but they were given new duties.

Hon. Samo did put it very well that there were some murmurs and he did put it that there were some fights in the departments.

I want to support this report even though some recommendations as mentioned by Hon. Okiri are not in line with the prayers of Hon. Guya. I have four water projects in my Ward and it is a shame that these projects have stalled and yet we have a technical officer in the department.

Hon. Okiri: On a point of information. Thank you, Mr. Speaker. We discussing redeployment of the Chief Officer and not water projects in the Wards.

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

Hon. Misachi: Thank you Mr. Speaker. We are getting out of the subject. We are talking about re-assignment. Meaning you have been given more duties on top of what you are doing. That is our understanding as a committee.

The Speaker (Hon. Oraro): What is Hon. Roy Samo?

Hon. Samo: Thank you Mr. Speaker. The Honourable Member is very right. Article 48 of the Constitution, Access to justice and Article 50, that is fair hearing. The committee ought to have called the Chief Officer to explain more on this matter.

The Speaker (Hon. Oraro): Hon. Roy, you did make your contributions and I remember you did say something like that. I think you have informed the House. Honourable Members, I want us to look at the Statement by Hon. Guya. So, look at the report by Labour Committee and the Statement. Please restrict yourself to those two. We will make our judgment when the time comes. Hon. John Atieno, you can continue.

Hon. Atieno: Thank you Mr. Speaker. I believe that we are reading from the same script and I don't believe that we are deviating from the fact that we are trying to put our best foot forward. It is worth to note that, these are public servants and employees of Kisumu County. One of the cardinal roles is that they have to deliver for the citizens of this County.

Mr. Speaker, if by giving new assignments to a Chief Officer of water will make the people of Kobura have access to clean water which they have yearned for a long time then, I fully support the contents of this report. If by redesignating one Mr. Zacheus Okoth Oketch will have the people of Kaluore who have desired to have access to clean drinking water for the last five years and yet funds were allocated in this department for the same and he never implemented this projects in a way that was in tandem with the Bills of Quantities (BQs) then I am in concurrence with the new assignment that has been given to this respondent Mr. Okoth to this non-entity because he is a none-performer.

Mr. Speaker, why should he be left in the helm of the Water Department where he has not delivered and we are all aware that "water is life"

Mr. Speaker, let us support this Government because this government has the vision to deliver on its promises to the people of Kisumu County. Mr. Speaker, it so unfortunate that the servants of the people who are the employees of this County Government are the ones let down the Governor Professor Peter Anyang' Nyong'o. We all know that the Governor has very noble ideas and he is so passionate in service delivery and then, somebody is given a duty to perform and then that start fighting over tenders which is not their mandate and domain. Mr. Speaker, I am in full support of the contents of this report not based on innuendos and propagandas but based on the underperformance of one Chief Officer Mr. Zacheus Okoth Oketch. Thank you.

The Speaker (Hon. Oraro): Hon. Pst. Arao.

Hon. Arao: Thank you Mr. Speaker. I believe that you have adequately guided the House on where we need to concentrate our deliberations on. The report that has been moved in the floor of this House is a bit confusing to us as Hon. Members because I cannot add more on what Hon. Okiri has said. This is because he has stolen words from my mouth. Mr. Speaker, the Standing Committee of Labour is concentrating on another thing all together.

Mr. Speaker, take for example if we refer to the Statement that was sought by the Hon. Guya, which number one states as follows;

1. *Why has the Chief officer Mr. Zacheus Okoth Oketch been redeployed to this amorphous entity in a manner likely to subject that he has been demoted from his former position?*

Mr. Speaker, we don't have any response to that. Mr. Speaker, when you read question number two, which states as follows;

2. *Was the Kisumu County Public Service Board involved in the Redeployment process?*

Mr. Speaker, the Standing Committee is in concurrence that, issues raised by the plaintiff has indeed taken place but there is no specific responses from the County Public Service Board addressing issues raised by the plaintiff. Mr. Speaker, we didn't get responses to question number two.

Mr. Speaker, statement number three which states;

3. *Was the Chief Officer having any disciplinary case that prompted the Resignations?*

Mr. Speaker, if you go through this report, we are not given any responses to that. Mr. Speaker, you also get to understand that the House Committee did not invite the respondent Mr. Zacheus Okoth Oketch and if they did, then, we were going to be in a position to know if he had any disciplinary case against him. So, he was not accorded any hearing at all. So, first, the House Committee was biased and they deliberately refused to be fair to both parties. Therefore, the report is a reflection of a substandard work, unfair and therefore we cannot depend on it.

Mr. Speaker, I therefore suggest that we need to implore the Committee Chairperson to desist from talking about the improvement of services in the Water Department, functional officer that don't diligently discharge their duties because this is totally different from the issues raised by the plaintiff. Therefore, this is a waste of time, papers, tonners...

(Applause)

Mr. Speaker, and at the same time a waste of our meagre resources. I want to implore the House that we return this report to the Sectoral Committee so that they look into issues raised by the plaintiff and address issues raised in the Statement. Otherwise, I do not know whether to support or oppose. This is because I don't know what to support and oppose.

Mr. Speaker, we are doing nothing here and let this report be taken back to the House Committee and bring us the report that has issues that the Hon. Member sought for. Mr. Speaker, I want this to be captured in the annals of records of this House stating that I am not opposing and not in support because there is no report. Thank you.

(Applause)

The Speaker (Hon. Oraro): Hon. Otura. Hon. Ameso, I have noticed you. Please let Hon. Otura go first.

Hon. Otura: Thank you Mr. Speaker. It is important to note that this House Committee has done some good work and it is also key not to undermine a report presented by a House Committee. This is because in the report we might find some gaps and it must have some strengths.

Mr. Speaker, it is quite interesting to find that, this report is being looked down upon whereas Hon. Guya who is the plaintiff or seeker of the Statement did request very specific issues that he wanted to know. Mr. Speaker it is worthwhile to know that, the responses are also indicated here in the report. Mr. Speaker, I am stunned to hear from my fellow Hon. Members that all these responses that are capture in this report they cannot see. Mr. Speaker, they are indicated here and they are as clear as night and day.

First, it is imperative to note that, there is annex one, then there is annex two which appears thrice, in actual fact four times. Mr. Speaker, then there is annex three, four, five which is also repetitive about four times. Mr. Speaker, in all these annexes, are responses to what Hon. Guya had sought. If you go through that item by item which I will not do because of time constraints, I wish to clarify one fact which is the very key subject matter here under scrutiny is, it is the redeployment or reassignment of the Chief Officer in question.

Mr. Speaker, in his request he talked about redeployment. The County Secretary Mr. Geoffrey Kegochi did respond in annex four. In annex four, this key item here is elaborate and each and every one of us can go through and see. Mr. Speaker, why has the Chief Officer been redeployed to this amorphous entity just as was requested by Hon. Guya? Mr. Speaker, the response is there.

The County Secretary has gone ahead to say more. Mr. Speaker, if you look at item number two which states *“Was Kisumu County Public Service Board involved in the redeployment?”*

The County Secretary has responded, and if you move forward and check on an annex which is a responses from the Kisumu County Public Service Board. Mr. Speaker, their response is crisp and straight to the point. The response from the County Public Service Board which they states that, it is not their duty to redeploy staff, if you read further, which I believe is indicated in annex. Mr. Speaker, please allow me to refer, there is an annex where the Secretary to the Board Mr. Hesborn Hongo has responded concisely. Mr. Speaker and Hon. Members, it is in annex three which is attached to the report. The Secretary touched on the deployment of Mr. Okoth. Mr. Speaker, in that response, he is very explicit where he cited in the second last statement that, the details of this can therefore be obtained from the County Secretary and not the Kisumu County Public Service Board. This is because County Public Service Board don't engage in the deployment of staff. Mr. Speaker, it is all capture here in the report.

Mr. Speaker, yes the report may be unstructured or faulty, but let us be alive to the fact that, the reports presented to this House, should not be demeaned to the extent that we don't have a duty to perform and we are using taxpayer's money.

Mr. Speaker, we have a duty to perform and we are doing it. Please, let us take our time and peruse through this document before we make our contributions. Mr. Speaker, yes I accept the fact that, the House Committee went ahead and made their recommendations by stating that, in the response to them was building into their case. Mr. Speaker, for example in a statement where they stated that, there are some things the County has to do to enhance service delivery like the provision and access to clean drinking water. Mr. Speaker, that is their point and they must build into it and that is normal in any circumstances. If you have a response, you can either give it directly or indirectly by building on it just to ascertain that you are really up to the task. Mr. Speaker, I am in full consensus with this report. Thank you.

The Speaker (Hon. Oraro): Please let me give Hon. Ameso, then Hon. Guya.

Hon. Ameso: Thank you Mr. Speaker. I am a member of the Standing Committee of Labour and Social Welfare and the report before this House as a Member of this House Committee together with my able Chairperson we did as was required of us in our Standing Orders based on the Statement sought by my good friend Hon. Johnson Guya.

Mr. Speaker, I am a bit dumbfounded by sentiments made by other speakers who spoke before me seemingly to say that the report does not capture the aspirations or prayers of the plaintiff.

Mr. Speaker, first, I want to appreciate this respondent Mr. Zacheus Okoth Oketch. He is a very experienced and knowledgeable person. Mr. Speaker, when there was a serious duty like this, the government deemed it right and looked into his cabinet and identified the right and suitable person to assign these duties of undertaking such serious issue and address this matters. Mr. Speaker, it is the reason as to why, Mr. Zacheus Okoth Oketch was picked and reassigned to another important duty and actually it was a special function that required somebody who is knowledgeable.

Mr. Speaker, when my good friend Hon. Guya sought why the Chief Officer has been redeployed? Mr. Speaker, in the response which is clearly captured here in annex four. Mr. Speaker, the problem with us sometimes is that we don't take time to peruse through the report in its entirety. Mr. Speaker, in the annex, is one of the report that was submitted before the House Committee by the County Secretary after seeking for these responses. Mr. Speaker, each and every issue sought by the plaintiff is responded to appropriately. The responses stated that the responded was not redeployed because, he is still a Chief Officer, earning the same salary and not that he was demoted as the Hon. Member had alluded.

Mr. Speaker, it is unambiguous in the report that he still remains the Chief Officer of Water and Sewerage Services. This is clearly capture in the report unless we are blind to the contents of this report or we want to speak on behalf of something else.

Mr. Speaker, on the second question, which the plaintiff sought. Was the Kisumu County Public Service Board involved in the redeployment process? The response to that query is clearly responded to in the report. Mr. Speaker, in section 45 of the County Government Act of 2012, it is within the purview of the Governor to reassign employees from one duty to the next. Mr. Speaker, another issue that was sought is that, is Mr. Okoth still a Chief Officer? The response that the appellant was seeking is clearly indicated in the report. Therefore, I support the report and I want to believe that this is the best report because all the queries are captured in the report. I wish that Hon. Members read through the report where they will find the responses. Thank you.

The Speaker (Hon. Oraro): Hon. Guya.

Hon. Guya: Thank you Mr. Speaker. I have just heard my good friend Hon. Ameso who is also the Chairperson of the Standing Committee of Water, Environment and Natural Resources struggling to explain things that are not neither here nor there.

Mr. Speaker, my statement was very clear and how I wish we could go back to the Statement directly which I believe was very clear and self-explanatory.

Mr. Speaker, the first statement was;

1. Why the Chief Officer was redeployed to an entity in a manner likely to suggest that he has been demoted from his former position?

Mr. Speaker, Mr. Zacheus Okoth Oketch was the Chief Officer in-charge of Water, Environment and Natural Resources. Mr. Speaker, all the Members in this House including members of the public including the Chairperson, Standing Committee of Water, Environment and Natural Resources is aware that there is an Acting Chief Officer in-charge of Water, Environment and Natural Resources and that can even be confirmed by the Tender Award Letters that are being awarded currently because they are being signed by somebody who is in acting position in the name of Marilyn Agwa. Mr. Speaker, the truth is, that Mr. Zacheus Okoth Oketch is no longer the Chief Officer of Water, Environment and Natural Resources.

Mr. Speaker, secondly. As per the provisions of County Government Act, the Chief Officer is the Accounting Officer or the AIE (Authority to Incur Expenditure) holder of that Department. Mr. Speaker, as we speak now, the respondent is not the Accounting Officer of the Department of Water, Environment and Natural Resources. So, the truth is that the responded Mr. Okoth is not the Chief Officer.

Mr. Speaker, the Committee has said here that, and I want to appreciate them for stating that. If you look at page eight of the report on the roles of the County Executive Committee Member and the roles of the Chief Officer. Mr. Speaker, I want us to go through this; I want to implore Hon. Atieno to be keen on this;

Roles of the Chief Officer on the issues of the management of Nyanas and Gulf;

- i. To oversee the development of legal framework for the sustainable management of rural water supply in reference to the existing regulatory instruments;

Mr. Speaker, if Mr. Okoth Oketch is not the Chief Officer today, he is not going to perform this function.

Mr. Speaker function;

- ii. Is to oversee awareness creation of key stakeholders in legal framework and other relevant regulatory instruments for the management of rural water; (Nyanas and Gulf)

Mr. Speaker, Mr. Okoth is not the Chief Officer, this is not his functions.

- iii. Is to supervise and report progress on the implementation of regulatory instruments for the management of rural water supplies;

Mr. Speaker, part (d), one of the key functions of the Chief Officer, Water and Sewerage Services is to;

- iv. Oversee winding up of Nyanas and Gulf Companies and handover their roles to KIWASCO.

Mr. Speaker, now that Mr. Zachaeus Okoth has been moved to be a secretary to some Ad-hoc Committee that has been formed, and yet we want to finalize on Nyanas and Gulf, it means that he is not going to perform that function since he is no longer the CEC Member for Water, and Sewerage Systems. We could blame Mr. Okoth for this but he is not the CEC Member In-charge, and if you look through the recommendations; as a County we want to wind up the issue of Nyanas and Gulf but the proponents of the issue to be done with, isn't even in office.

Mr. Speaker, on page nine, number five, says that the employment of staff at the Water Company is guided by the Human Resource Manual, where the management is fully responsible for all the exercises except the heads of departments, which is done by the Board of directors. Which Board of directors? We have a number of companies in one, and KIWASCO has its Board of Management but even as we speak, both Nyanas and Gulf don't have a Board of Directors. We have illegal companies operating within the County of Kisumu. Their illegality is to the extent where all the monies collected in Nyanas and Gulf don't come to the County coffers as seen in the Budget Estimates. How can a government entity that raises revenue and use it at source without approval? Isn't that corruption and misappropriation of funds? Former CEC Mr. Ouko also had queries about Gulf and Nyanas and the Leader of Minority knows that these two are amorphous companies that don't exist.

My statement was aimed at knowing the existence of these two companies because currently, the County Government of Kisumu is struggling to raise revenue while somewhere within the County,

someone is pocketing money that should be remitted to the coffers to help us in development. Mr. Speaker, I want to confirm here that Nyanas alone generates Kshs. 1,800,000.00 per month. The Standing Committee has said here that; there is delay in remitting of revenue from Nyakach Sub-County. This is outright false because out of Kshs. 1,800,000.00, Kshs. 1,500,000.00 comes from Nyakach Sub-County and the remaining Kshs. 300,000.00 come from Nyando and Muhoroni.

Leader of Minority (Hon. Oiko): A point of order Mr. Speaker

The Speaker (Hon. Oraro): What is your point of order Hon. Leader of Minority?

The Leader of Minority (Hon. Oiko): (*On a point of order*) As per Standing order no. 89; Statement of facts. I would like the House to compel Hon. Guya to present proof that indeed Nyanas generates Kshs. 1,800,000.00 monthly. We should not take this lightly as he comes from Nyakach and also a member of the Investigative Committee of PIC/PAC.

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

Hon. Guya: Thank you Mr. Speaker, I want to thank my friend the Leader of Minority, who I believe is a member of the Standing Committee of Labour. What he is suggesting is one the things that should have been provided here by the Standing Committee of Labour...

The Speaker (Hon. Oraro): Hon. Guya just resume your seat for a moment.

Hon. Guya: Okay...

The Speaker (Hon. Oraro): Honorable Members, in my initial ruling I believe that I gave directions that we confine ourselves to the statement sought and the report by the Standing Committee on Labour. I have gone through the statements but none asks about Revenue or Bills. So, whenever you are raising statements ensure they are clear. In addition, I was just asking myself loudly while you were on the floor Hon. Guya that, is it a must that every Chief Officer becomes an Accounting Officer? Secondly, has any Chief Officer been re-assigned before? Is he earning the same salary or was it reduced? What happens when a worker feels that the re-assignment feels like a demotion? Let's contribute in line with those prospects.

Hon. Guya, you are the one who raised the statement and the first statement was seeking to know why the Chief Officer has been Re-deployed to an amorphous entity, which the committee responded to by saying that he has not been re-deployed but has been re-assigned to perform other duties.

The second statement was inquiring the involvement of the Kisumu County Public Service Board in this Re-assignment. In their response is that they weren't because it's not their work.

Consequently, you asked whether Mr. Okoth was in any disciplinary case, and the response is that they aren't aware of any disciplinary case.

Your statement number four was to know the role of CEC Member and the Chief Officer of Water and Sewerage in the Management of Nyanas and Gulf. In addition, you wanted to know how the casuals in the said companies were recruited and the role CPSB in the recruitment.

Lastly, you wanted to know whether the staff are in the county payroll. I never saw anything on Revenue Collection or any other that you are now talking about.

Hon. Samo: A point of information Mr. Speaker

The Speaker (Hon. Oraro): What's your point of order?

Hon. Samo: *(On a point of information)* I agree with you on that. If you look at the National Government and the County Government of Kisumu, the current Chief Officer, Mr. Okia, is doubling up as both CEC Energy and Industrialization and added other duties on Roads and Public Works. There is re-assignment but he is still the Chief Officer. However, in this case Mr. Okoth has been moved to a different entity altogether. So, he's not only been re-assigned but has also been demoted, that's why the matter came to this House so that we find a solution.

The Speaker (Hon. Oraro): That's what I wanted to know. So, I believe the Sectoral Committee Chair will have time to respond to that. Whether the salary has been tampered with and if he has been moved to a different place. The answer here nevertheless, is that he is still the Chief Officer.

The Speaker (Hon. Oraro): Yes, Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Mr. Speaker, on the question that you just asked whether the Chief Officers should be Accounting Officers? When we were doing the vetting of the Chief Officers, one of the Terms of Reference was that the AIE holder, so they are Accounting Officers.

The Speaker (Hon. Oraro): What about a department where there are three Chief Officers? Anyway, the Chairperson will respond to that.

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

Hon. Atieno: I want to inform Hon. Roy Samo

The Speaker (Hon. Oraro): Hon. Roy Samo do you want to be informed?

Hon. Guya: Hon. Roy was on a point of information, and I was the one on the floor.

The Speaker (Hon. Oraro): Let us give him a minute to listen to what he has to say.

Hon. Atieno: *(On a point of information)* Hon. Samo is quite obsessed with this issue of Re-assignment and Re-deployment. How does the re-assignment of Mr. Okoth affect us in any way?

(Laughter)

The Speaker (Hon. Oraro): Yes, Hon. Guya the floor is yours.

Hon. Guya: Mr. Speaker, you have proved me right that Hon. Atieno has personal vendetta with the said officer. As I was saying earlier, that on page nine of the report, in number ten, the Standing Committee has said that there is delay in payment of water bills especially in Nyakach Sub-County but that's not true and should be corrected. If I go through the responses of the statement, the first response is that due to the exigency of time and the importance of the two water companies that were devolved, it was decided that the Chief Officer for Water and Sewerage Services be assigned to oversee reforms in these two water companies. The functions of the Chief Officers spelt out on page eight and nine are the same ones he has been given here. So, why did they have to move him out of office? The Sectoral Committee hasn't told us where Mr. Okoth is because in their response they only talk about re-assignment. The Sectoral Committee has also responded to the roles of the CEC member and Chief Officer in the management of Nyanas and Gulf as a Chief Officer but not as a secretary to an amorphous entity that doesn't exist. This means that even if Mr. Okoth was still in office, he should be performing those duties.

Mr. Speaker, one important aspect in that response as the Sectoral Committee has said is that, in Kisumu County, the rural water utilities were handed over to KIWASCO in 2014 as per the MoU that was signed. Where is that MoU? What was signed was a three-to-one policy that was supposed to last for 3 years, which means after its expiry in 2017, now the county doesn't operate on any MoU within KIWASCO, Nyanas and Gulf.

The three-to-one policy implied that all the three water companies were supposed to be merged into one for the duration of 3 years. So, after 2017, we do not know where the revenue collected from the companies go to. We cannot even tell who manages Nyanas and Gulf because there is no legal documentation on their operations. Mr. Speaker, how were the 40 casuals and permanent staff recruited in both Nyanas and Gulf? This is a company with no Board of Directors. If you go up to these companies, they do not even have the HR Department. So I don't know who uses the HR Policies Manual. Even if the staff have got HR related issues there is nobody to help them with that.

Mr. Speaker, they have recruited, and I don't know what the law says about recruitment in a government institution...

Hon. Okiri: A point of information Mr. Speaker

The Speaker (Hon. Oraro): What's your point Hon. Okiri?

Hon. Okiri: *(On a point of information)* I want to inform Hon. Guya that he should wind up because his time is up.

(Laughter)

Hon. Guya: Mr. Speaker, I am in number five which is my last point. They have confirmed here that they have recruited but what baffles me is that they are saying that there are no permanent staff at Gulf and Nyanas but even you know that they are there. Those working under National Water are in both Nyanas and Gulf and are all permanent staff. Who pays them? Despite them being permanent staff, neither KIWASCO nor the Kisumu County Government pays them. They therefore collect money and pay themselves. The National Government brought them to the county but up to now, the county government hasn't absorbed them in the payroll. Mr. Speaker, they collect taxpayers' money and pay themselves. Lastly, my statement was seeking to know whether those employees in both Gulf and Nyanas are in the county payroll. The answer here is no because the County Government of Kisumu does not recognize them. The same applies to those in the KIWASCO payroll. We are struggling as a county to collect revenues and as it stands, they are quite low yet there is revenue in Nyanas and Gulf. As a County, we need to collect that but if it is impossible, we should then take them to KIWASCO at a point where auditing will be easier. I want to request you and the House that a lot of this information that we are supposed to get from Nyanas and Gulf on this question to the last three questions. If you look at the responses, they are inadequate.

Mr. Speaker, I would request that either the Sectoral Committee go back and work on this report or as a House we constitute a team to ensure that we get back these revenues to the County so that we do not continue to lose. Otherwise Mr. Speaker, injustice to Mr. Zacchaeus Okoth should not be celebrated by the people who have got issues with him.

I know he hails from Nyando and that he has some issues with few members here but that one should not be celebrated, thank you Mr. Speaker, I oppose the report.

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

Hon. Ogutu: Thank you Mr. Speaker, I believe that the report is not all that okay on my side. There are some issues which this report ought to have carried but they are not there.

I know that Mr. Okoth is a very hard working civil servant of Kisumu County. I believe and most of us also know that he wanted to protect the revenue of Kisumu County but there are some people who wanted to embezzle funds. On a particular period, Mr. Okoth refused to sign...

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

Hon. Atieno: On a point of information M. Speaker sir.

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

Hon. Atieno: Mr. Speaker, the Standing Order No. 89 talks about the Statement of Facts. The Hon. Member that is on the floor of the House is alluding that there are some people that are misappropriating resources of this County. Mr. Speaker, can he explicitly say who they are because

just as I have said, this is a House of facts and records? I believe that is in order in the interest of this House sir.

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

Hon. Guya: Mr. Speaker, I can help Hon. Ogutu if you allow sir.

The Speaker (Hon. Oraro): I do not know if he wants you to help him. Hon. Ogutu.

Hon. Ogutu: He is an Honourable member and he can help.

(Laughter)

The Speaker (Hon. Oraro): Hon. Guya.

Hon. Guya: Thank you Mr. Speaker. We are privileged that Hon. Atieno and I sit in the PIC and PAC Committee. The question that he is asking has been answered by the Auditor General in the reports and he can confirm that, it is here.

Hon. Pete: On a point of order!

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

Leader of Minority (Hon. Oiko): Hon. Speaker, the issue raised by Hon. Atieno is challenging the statement raised by Hon. Ogutu that Mr. Okoth was protecting the County from being looted. He has not produced that evidence showing the plunderers. Also he has not proved how much the he was protecting the County not to lose.

Hon. Guya is also alluding that this is evidence from the Auditor General's Report; Mr. Speaker, at what time or financial year did this report surface? Mr. Okoth was just employed the other day. Let us be factual and address the real issues which were raised by Hon. Guya when he made those statements. Let us not digress too much. In that case we shall become irrelevant. That is my plea Hon. Speaker.

Hon. Arao: Hon. Speaker, I also wanted to help.

The Speaker (Hon. Oraro): No, No, Hon. Leader of Minority was on a point of order and it is good to clear with a point of order first before I give another person. To Hon. Ogutu, you are being asked about the people who wanted to plunder the County and Mr. Zachaeus was protecting the funds.

Hon. Ogutu: Thank you Mr. Speaker. I believe that there are some facts which we as Hon. Members should not ask. First of all, we have the Auditor General Report in this Assembly and it is a property of this House.

The Speaker (Hon. Oraro): Hon. Ogutu that is what Hon. Leader of Minority is asking. For instance, which year...

Hon. Ogutu: Secondly, let me build on my case because people are building on their case. I know and even some Hon. Members in this Assembly knows ...

The Speaker (Hon. Oraro): Are you withdrawing the issue of plundering?

Hon. Ogutu: Mr. Speaker, which is what I am building on, just give me time. Mr. Speaker, Mr. Okoth was being punished for refusing to sign a cheque to pay a son of somebody in this County.

Hon. Arao: On a point of information Mr. Speaker sir.

The Speaker (Hon. Oraro): Whom do you want to inform? You know that Hon. Ogutu is responding to a point of order that was raised.

Hon. Arao: Thank you Mr. Speaker Sir. It has been stated here by Hon. John Atieno and Hon. Leader of Minority that Hon. Ogutu produces facts to substantiate allegations of plundering of the County coffers by some officers. In contrary to the Standing Order No. 89, the Hon. Member is still going on telling us lies. Let him speak while laying the evidence on the table. Hon. Ogutu is misleading this House by false allegations on the cheques, the looting, the bribery and false accusation.

If he cannot debate, let him sit down and let him stop taking this House in circles.

Hon. Ogutu: Mr. Speaker, I believe that we are not patient enough because I have evidence which I want to lay on this Honourable House.

As I said and still standing by that, Mr. Okoth refused to sign a cheque for one of the people in this County which he was compelled to pay. This is why he is being punished. Secondly, he was again ordered to pay for the procurement of motorbikes...

Hon. Atieno: On a point of information.

The Speaker (Hon. Oraro): Hon. Atieno, can you give Hon. Ogutu time to respond to the point of order. Hon. Leader of Minority is here and he will tell me whether he is satisfied.

Hon. Ogutu: Secondly, Mr. Okoth was forced to pay for the procurement of three motorbikes which were ordered and he inquired why he was supposed to pay those items. He wanted papers to support that so that he could pay. He was not furnished with these supporting documents that he had requested for and it's the reason as to why he vehemently refused to sign that particular cheques.

Mr. Speaker, I have been challenged to produce evidence and I do not just speak for the sake but with evidence. I have a letter here and it is entitled; ***Refusal to Sign Three Cheques.***

This is where the tyres meets the road. The date was 15th April, 2021. Mr. Okoth was ordered to sign those cheques. He refused because he wanted supporting documents which were not availed. Mr. Speaker, with your permission, can I be allowed to read this letter, ultimately, I will hand them over to you after I have read them so that they can be in your custody?

Mr. Speaker, 'Reference is made to numeral letters by the Managing Director of KIWASCO and the subject matter goes; it is true I have refused to sign the following cheques based on the below facts and errors.

1. Invoice No. 1030; Cheque No.001030. Staff salary, Gulf account amounting to Kshs 24,450 shillings.

Observation:

i. This staff was employed and sneaked. Underline sneaked into the payroll without involving the County Government. That is observation No.1.

ii. As far as the KIWASCO oversee operations of the water company, they have no mandate to employ staff on behalf of the county government of Kisumu.

iii. No advertisement was made; no interview was conducted on the same and only salary cheque was presented to the County Government.

2. Invoice No. 1040, cheque No. 0039. Reason ... 2 number motorbike gulf...

Hon. Atieno: On a point of information.

Hon. Ogotu: Kshs 202,800 Mr. Speaker. Observation...

The Speaker (Hon. Oraro): What is it Hon. Atieno? Just a minute, whom do you want to inform?

(Hon. Ogotu consulting loudly)

Hon. Atieno: Hon. Speaker, it is very prudent that Hon. Ogotu should not be allowed to continue misleading the House.

The Speaker (Hon. Oraro): Hon. Atieno, just have a seat. Hon. Ogotu, for the members to feel safe, just hand me the copies of the evidence that you have.

Hon. Ogotu: I have more evidence and I cannot hand them over to you because I remain without. Because I know how the system works.

(Laughter)

The Speaker (Hon. Oraro): Hon. Ogotu, not in a bad note. But, even in a Court of Law, you have to give the evidence for authentication then you proceed.

Hon. Ogutu: I am giving you others, just wait.

(Laughter)

(Hon. Ogutu tables the evidence before the House)

This is another reply from the minister. Mr. Speaker, I am saying and still believe that the Sectoral Committee should have done more than what they have done. On the same note, this report is a little bit worrying therefore I am not supporting it, thank you.

The Speaker (Hon. Oraro): Hon. Sally Okudo.

Hon. Okudo: Thank you Mr. Speaker. Just from the sentiments that have been spoken in this House, I neither reject nor support this report. However, I would like to call for the Chief Officer Mr. Zacchaeus and probably the CEC because, clearly there is an issue and something is going on in this department and needs to be interrogated. So, I would really want to know what is going on from the department because what Hon. Ogutu just availed documents to us indicating that there is a problem that needs to be addressed.

I therefore would like to suggest for you to maybe to direct this to the Oversight Committee so that we invite and interrogate both the CEC and the Chief Office in this House.

Applause.

Hon. Arao: On a point of information Mr. Speaker sir.

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

Hon. Arao: I want to inform the House. I am very much disappointed and at the same time excited with what the Hon. Ogutu has brought to the floor. The only disappointment I have is that he had the chance to bring those evidences before the Sectoral Committee so that we could have a conclusive report, thank you Mr. Speaker.

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

Chief Whip (Hon. Misachi): Mr. Speaker, I want to say that according to our mandate as the Labour and Social Welfare Committee, we did our best and the report is here.

However, the other document which has been given on the floor of the House belongs to PIC and PAC Committee. I am also made aware that there was a PIC and PAC Committee report which was handed over to EACC for investigation. Maybe those are part of the...

Hon. Guya: Mr. Speaker, on a point of information.

The Speaker (Hon. Oraro): Hon. Members, let the senior member give her point of information. I have noticed you and I am going to give a chance to speak.

(Loud consultations)

Hon. Guya: On a point of order Mr. Speaker!

(Loud consultations)

Hon. Guya: On a point of order Mr. Speaker!

(Loud consultations)

Hon. Guya: On a point of order Mr. Speaker!

(Loud consultations)

Hon. Guya: Mr. Speaker, it is very serious. On a point of order Mr. Speaker!

The Speaker (Hon. Oraro): Hon. Guya, I have noticed all of you, let her finished first, I am going to give all of you. I have promised.

Chief Whip (Hon. Misachi): So, Mr. Speaker, as our mandate as a Sectoral Committee, I was talking about Reassignment and Deployment. We were not supposed to investigate the said department. Though the report is being dismissed, it is a very good report. I believe that it is a report that has answered all these which are now coming to. In reference to what Hon. Sally Okudo said, that you can refer this to General Oversight Committee so that we interrogate ; the Chief Officer, the minister, KIWASCO so that we know where the problem lies.

The Speaker (Hon. Oraro): Hon. Beatrice Pamela, what is it?

Hon. Beatrice Pamela: Mr. Speaker, I want to inform the House that the documents that I have heard Hon. Ogotu read in the House are not the ones that had been handed over to the EACC. That is because from the dates that I have heard, they are documents that are based on this current financial year which the Investigative Committee is yet to dispense on.

The Speaker (Hon. Oraro): Hon. Guya.

Hon. Guya: Thank you Mr. Speaker. I just have some issues with what Hon. Misachi has said. Is it in order for her to allude in this House that PIC and PAC Committee report are handed over to EACC that they report to EACC?

The Speaker (Hon. Oraro): Hon. Guya, I want to rule you out of order. She referred to what was said by Hon. Leader of Minority.

Hon. Guya: So, the Leader of Minority confirmed that the committee report to the EACC? Can he confirm that?

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

Leader of Minority (Hon. Oiko): Hon. Speaker, what I said was very clear that there was a time that PIC and PAC Committee was interrogating the report of KIWASCO. The Investigative Committee recommended that the issue of Nyanas and Gulf be further investigated by the EACC on the then financial year not the current one. Let us be very clear. Another issue that I want to raise is that what Hon. Ogutu rose...

The Speaker (Hon. Oraro): Hon. Oiko, you've just responded to a point of order from Hon. Guya. So, I believe that you are raising another issue as a debate?

Hon. Oiko: Yes, Hon. Speaker. On what Hon. Ogutu has raised, they should have petitioned the Labour committee that there is an interested party who should also be heard. Bringing that issue at the tail end of the report means you are not being fair.

The Speaker (Hon. Oraro): Hon. Members, let me give direction. I have gone through the copies of evidence provided by Hon. Ogutu even though I am not able to see clearly whether they are certified or not. I want to assume that they are genuine.

This Statement was raised by Hon. Guya on 6th April, 2021 and committed to the Sectoral Committee of Labor and Social Welfare; and in line with our Standing Orders, any member can participate in any committee sitting except taking a vote.

Secondly, we have agreed to restrict ourselves to the questions at hand, otherwise we may find ourselves being irrelevant.

It has come out that the accused was not given time to appear before the Sectoral Committee. The Chair will reply to this. May be that would have given us a clearer picture of what is happening in the department especially on the reasons why he was moved.

I still request that we restrict ourselves to the matter at hand. You are free to bring any amendment or suggestion on way forward.

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

Hon. Guya: Mr. Speaker, you have made a statement that all of us need to understand. This issue was raised in this House as a Statement. Ordinarily, in Statements, members don't vote. It is either we are satisfied or not satisfied. If we are not satisfied then you just refer the matter to the General Oversight Committee where we bring both parties and help the county.

The Speaker (Hon. Oraro): What is your point of order Hon. Okiri?

Hon. Okiri: Mr. Speaker, I wanted to inform the House that we had made a resolution as a House that when a Statement comes back to this House we treat it like a motion. Hon. Guya should not mislead the House.

The Speaker (Hon. Oraro): Hon. Guya I want to rule you out of order. We had agreed that we make resolutions as House and that we can only do when the matter comes back as a report. Let us not pretend that we will get something through replying to a Statement during the Statement hour. The Statement hour is basically for raising questions and statements which can be discussed at that moment and if not conclusive then, we can refer it to a relevant House Committee to look into it further.

The Speaker (Hon. Oraro): Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Thank you Mr. Speaker. I wish to support the report. Personally, all the questions that were raised in the Statement have fully been answered by the County Secretary. The County Secretary has confirmed that Zacheus Okoth is still the Chief Officer for Water and Natural Resources.

It is also important to note that when we were vetting Chief Officers, we had two Chief Officers in the Department of Water and Natural Resources. It is within the prerogative of the government to decide who between the two to be the AIE holder.

Mr. Speaker, I am pleased that the County Public Service Board has given its response and the Sectoral Committee did well by writing to all offices concerned in this matter and all their responses are hereby attached. The County Public Service Board has stated clearly that its role is to employ but the work of reassigning is the work of the Governor.

Finally, let me talk about the perceived wrangles between the CEC and the Chief Officer. I remember when I was Chairing the Committee of Labour, there was the same issue in the Health Department. One chief officer could write a letter, another chief officer rejects the letter. A CEC could write a letter, a Chief Officer disowns the same letter. It seems we have the same scenario in the Water Department. We have to deal with this situation. The solution, according to me, is to form an Ad hoc Committee to look into the wrangles between the Chief Officer and the CEC. Thank you.

The Speaker (Hon. Oraro): Hon. Jennipher Obonyo.

Deputy Majority Whip (Hon. Obonyo): Thank you Mr. Speaker. I call the Mover to reply.

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

Hon. Miruka: Thank you Mr. Speaker. First, allow me to applaud members for a very healthy debate. However, a few members have gone out of the context regarding the matter that was raised by Hon. Guya.

The Sectoral Committee worked within its mandate. The Standing Committee handled the Statement the way it was raised by Hon. Guya and I refer members to the annexes that we have. Hon. David Arao remarked here that as a House Committee, we never responded to any of the questions sought by Hon. Guya. Hon. Arao. Mr. Speaker, I believe that you are in a trance because annex four which I referred you to, it explicitly answers what Hon. Guya enquired. Annex five referred us to the memorandum that was there earlier on what functions are handled by KIWASCO and what functions are handled by the county.

On the first question raised by Hon. Guya, the officer was neither demoted nor redeployed. He was reassigned which is within the mandate of the appointing authority.

On the second question...

The Speaker (Hon. Oraro): Hon. Miruka, as you reply, address the Chair. What is it Hon. Roy Samo?

Hon. Samo: Mr. Speaker, I have been watching the National Assembly and during reply, a member is allowed to raise a point of order.

The Speaker (Hon. Oraro): That is why I have given you time – just say what you want to say.

Hon. Samo: What Hon. Miruka is saying is out of order because Redeployment and Reassignment is different. At that moment you were engaged so you did not hear it. That is why I wanted to bring it to you attention – that he is misleading the House. The officer we are talking about has not been redeployed. If he had been reassigned then it means he would have been taking care of another department as a Chief Officer. In this case he is not reassigned. He has been demoted.

The Speaker (Hon. Oraro): Hon. Samo, I want to rule you out of order. I also have the same report and the reply is that he has been assigned other duties outside his work.

Hon. Miruka: Thank you Mr. Speaker. If you look at the response from the County Secretary, the Chief Officer was tasked to oversee reforms at Gulf and NYANAS Water Companies. That does not affect what he is supposed to do as a Chief Officer. Had the County Secretary indicated that the officer was redeployed or demoted, that is exactly what we would have shared with you. He said he still remains the Chief Officer.

Mr. Speaker, some members claim the neither the officer no longer signs cheques nor sits in his officer. That is a big rumours. This is a House of Order. If a Statement was raised to enquire into that then we would have done it. In this case, there was no evidence. Do you people have evidence? Do we want to be rumour mongers?

On the second question, on whether the Public Service Board was involved in the process, they said their work ends at employment; refer to annex three.

The next question; on the role of CEC Water and Natural Resources on Management of Gulf and Nyanas Water Companies. I want to state that in Nyanas and Gulf there are only contracted and casual employees. The only permanent staff there is employed by KIWASCO, not the two water companies.

On the question on how 40 casual staff and one permanent staff were recruited. Mr. Speaker, let us look at the memorandum. Based on our investigations, they are 30 staff. Hon. Guya said 40. What facts do you have? We have the annexes that actually indicate how they are paid from the casuals and the contracted staff from Gulf and Nyanas companies. We have them here and where is yours that indicates that they are 40. Let us face facts and not talk for the sake of it.

Finally, I have heard Members talking about PIC/PAC Committee on issues of Nyanas and Gulf. That was a different thing; we were handling specific items that relate to labour and that is what we gave. So, I want to ask my fellow Hon. Members at any given time that we rise to subscribe let us remain relevant to the items raised. Let us not just pin point issues because you have a personal vendetta with your fellow Hon. Member or staff from the County. We all need to embrace one another for the sake of continuity and good implementation. Hon. Okiri rubbished some recommendation that we highlighted here and I want to give my point to support that. When I say that we must work with the County Executive to ascertain that devolution items are maintained because they undertake implementation and we do oversight. Let us do it rightly and independently and that is exactly what I meant. Otherwise thank you Hon. Members and I still wish that you could help in support of adopting this report. Thank you.

The Speaker (Hon. Oraro): Thank you. I believe that the debate was very good and that is how Hon. Members debate. You can agree with a report or disagree with it. We must do the necessary as per our Standing Orders and I always say that if a House Committee has given its recommendations we either agree with them or not agree.

Like in this case if we don't agree with it we ask the question: what do we do next? Hon. Miruka, the Chairperson of Labour and Social Welfare presented a report on the said Labour Committee on the position of Mr. Zacheus Oketch and the Management of Nyanas and Gulf Water Companies as per the statement raised by Hon. Guya on the 6th of May, 2021. Hon. Members, the report has been seconded and debated by Hon. Members. I therefore want to put a question on the adoption of the same?

The Speaker (Hon. Oraro): The report on the said committee on the position of Mr. Zacheus Oketch...

(Hon. Members on their feet)

The Speaker (Hon. Oraro): Hon. Members when there is a request for division by standing then the Hon. Thing to do is to go for division.

(The Clerk at the table consulting with the Speaker)

The Speaker (Hon. Oraro): Serjeant-at-Arms please hand me over the register! I have consulted the Clerk and we have agreed we will call names and you loudly vote on your microphones. Kindly close the door we don't want anybody to walk in or walk out when the roll is being called. Hon. Members you will just rise and say 'Yes' or 'No'. Clerk, Haman you will be talking record.

The Speaker (Hon. Oraro): Proceed Madam Clerk!

DIVISION

ROLL CALL VOTING

(The Clerk at the table calling the Hon. Members by names to verbally vote on either 'Yes' or 'No')

AYES:

1. Hon. Priscah Misachi
2. Hon. David Arao
3. Hon. John Obura Atieno
4. Hon. Vitalis Otura
5. Hon. Samson Ameso
6. Hon. Rashid Miruka
7. Hon. Samuel Dede
8. Hon. Florence Olang'o
9. Hon. Jennifer Obonyo
10. Hon. Beatrice Odongo
11. Hon. Nancy Owiti
12. Hon. Olga Aoko
13. Hon. Inviolata Adhiambo

ABSENT

1. Hon. Pamela Odhiambo
2. Hon. Joachim Oketch
3. Hon. Seth Kanga
4. Hon. Joseph Olale
5. Hon. Stephen Ouma Owiti
6. Hon. Jacktone Ogendo
7. Hon. George Omondi Olwal

8. Hon. Vincent Jagongo
9. Hon. Erick Otieno Agolla
10. Hon. Gard Olima
11. Hon. George Abaja
12. Hon. Kennedy Ageng'o
13. Hon. Victor Rodgers
14. Hon. Maurice Ngeta
15. Hon. Kennedy Ooko
16. Hon. Benny Oiko Pete
17. Hon. Kenneth Odhiambo
18. Hon. Maurine Opondo
19. Hon. Julius Genga
20. Hon. Habil Nyasuna
21. Hon. Seth Okumu
22. Hon. Carren Muga
23. Hon. Jane Manuche
24. Hon. Carren Joyce Oguok
25. Hon. Aslam Khan
26. Hon. Consolata Ollows
27. Hon. Caleb Omoro

NAYS

1. Hon. Paul Okiri
2. Hon. Roy Samo
3. Hon. Johnson Guya
4. Hon. George Ogutu
5. Hon. Sally Okudo
6. Hon. Philemon Ojuok
7. Hon. Beatrice Pamela Ochieng

ABSTAIN

1. Hon. Judith Ogaga

The Speaker (Hon. Oraro): You can open the door!

(Loud laughter)

The Speaker (Hon. Oraro): Order!! Order!! Members! I want the Clerk to read to us the results. Hon. Leader of Minority, when the voting starts we usually close the door. I know that Hon. Pete is in order that when voting is about to start we ring the Division Bell for five minutes then we close the door. We are not including him.

Clerk give us the results!

AYES: 13

NAYS: 7

ABSENTIONS: 1

The “Ayes” have it.

(Question carried by 13 votes to 7)

The Speaker (Hon. Oraro): In that regard the report from the Standing Committee of Labour and Social Welfare on the Position of Mr. Zacheus Oketch and the Management of Nyanas and Gulf Water Companies as presented by Hon. Miruka has been adopted today Wednesday, 19th May, 2021 at 1714 hours. Therefore the resolutions should be forwarded to the relevant department for action.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business to transact, the House stands adjourned to Tuesday, 25th May 2021 at 2.30 p.m.

(House rose at 5.17 p.m.)

Addendum

Hansard Reporters

Zablon Otiende – Senior Hansard Reporter/Broadcasting Unit

Edward Odanga – Reporter/Broadcasting Unit

Fanuel Okode – Reporter/Broadcasting Unit

Patrick Okoyo – Reporter/Broadcasting Unit

Jacklyne Otieno – Reporter/Broadcasting Unit

Dennis Ogolla _ Reporter/Broadcasting Unit

Jesca Otieno – Reporter/Broadcasting Unit