

## COUNTY GOVERNMENT OF KISUMU



### COUNTY ASSEMBLY OF KISUMU

### **THE HANSARD**

#### *Official Report*

#### **THIRD ASSEMBLY – THIRD SESSION**

**Tuesday 21<sup>st</sup> May, 2024**

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

**(The Temporary Speaker (Hon. Emily Oginga) in the Chair)**

#### **PRAYER**

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Honourable members, may I direct that quorum bell be rang for the first five minutes.

*(Quorum bell rung for the first five minutes)*

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Honourable Members, I am not able to see the Whip or the Leader of Majority but I can see Hon. Boitone occupying the seat of Leader of Majority. Can you please confirm if we have quorum.

**Hon. Boitone** (MCA, Nyalenda “A”): Thank you Madam. Speaker, we have quorum.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Mr. Clerk, please take us through the Order Paper of today.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Next order!!

#### **COMMUNICATION FROM THE CHAIR**

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**The Temporary Speaker** (Hon. Oginga, Nominate Member): Honourable Members, I welcome you to this session. I want to acknowledge the presence of youths from Uwezo Pamoja Association, Hillary Onyango Okoth of Kisumu Polytechnic University, Simon Onyango of Silvertech and Alphonse Omondi from Uzima University. On behalf of the Members of the County Assembly of Kisumu, I welcome you to Kisumu County Assembly. I will give two Members a chance to say something to the visitors.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Yes Hon. Millicent Omuya.

**Hon. Omuya** (MCA, North Seme): Thank you Madam Speaker. May I take this opportunity to welcome our visitors and please feel at home. This is like any other hall though with authority vested on us by the Constitution of Kenya 2010 is the reason why we as Members are permitted sit here. We were also once students like you and that means you can also be a Member of the County Assembly. Karibuni sana and feel most welcomed.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Thank you Hon. Omuya. I will give another chance to Hon. Bill Odhiambo.

**Hon. Bill** (MCA, Kobura): Thank you Madam Speaker. I want to take this opportunity to welcome this group to the Assembly. At times when you see visitors in the gallery then it means they are interested in what we do. We have got three roles, to legislate, to oversight and to represent the people. Your presence shows that you value the role that we play in the Assembly. You will also realize that we have many people from different walks of life. We have in this House accountants and those with management background. We make decisions that are for the good of the people of this county. So we are happy to have you here.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Thank you Hon. Bill for that short brief.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Next order!!

## PAPER LAID

THE KISUMU COUNTY EDUCATION FUND REGULATIONS 2023

BY

HON. MIRIAM ABEID, NOMINATED MEMBER

(CHAIRPERSON, DELEGATED LEGISLATION COMMITTEE)

*(Laid by Hon. Obaso on behalf of Hon. Abeid)*

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Hon. Obaso Henry.

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**Hon. Obaso** (Nominated Member): Thank you Madam Speaker, allow me to lay this Paper on behalf of the Chair.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Proceed.

**Hon. Obaso** (Nominated): Thank you. Pursuant to the provision of Standing Order No. 182 (6), I wish to lay today Tuesday 21<sup>st</sup> May, 2024 a report by the Delegated Legislation Committee on the Kisumu County Education Fund Regulations 2023. Thank you.

*(Hon. Obaso lays the report on behalf of the Chairperson, Hon. Abeid)*

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Honourable Members, I wish to confirm the receipt of a report of the Select committee on Delegated Legislation on the Kisumu County Education Fund Regulations 2023. I want to commit this report to the House Business Committee for scheduling it for debate.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Next order.

### NOTICE OF MOTION

THE KISUMU COUNTY EDUCATION FUND REGULATIONS 2023

BY

HON. MIRIAM ABEID, NOMINATED MEMBER

(CHAIRPERSON, DELEGATED LEGISLATION COMMITTEE)

*(Notice of Motion given by Hon. Obaso on behalf of Hon. Abeid)*

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Hon. Obaso Henry.

**Hon. Obaso** (Nominated): Thank you Madam Speaker, allow me to give a Notice of Motion on behalf of the Chair.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Proceed.

**Hon. Obaso** (Nominated Member): Thank you. Pursuant to the provision of Standing Order No. 45 (2), I wish to give a Notice of Motion on a report by the Select Committee on Delegated Legislation on the Kisumu County Education Fund Regulations 2023. Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Next order Clerk!!

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## STATEMENT HOUR

**The Temporary Speaker** (Hon. Oginga, Nominate Member): Hon. Ratib Boitone.

**Hon. Boitone** (MCA, Nyalenda A): Thank you Madam Speaker. I wish to give this Statement on behalf of the Leader of Majority. That, pursuant to the provisions of Order No. 42 (2) (c) of the Kisumu County Assembly Standing Orders, which mandates the Leader of Majority in my capacity as the County Assembly Leader of the Majority to present and lay on the table a Statement informing the Assembly on the business coming before the House on the following week.

Madam Speaker, this is therefore to bring to attention of the Members and the County Assembly that for the week commencing Wednesday, 22<sup>nd</sup> May, 2024 to Tuesday, 28<sup>th</sup> May, 2024 the Select Committee on Assembly House Business at its last sitting approved the following tentative businesses to appear in the Order Paper as follows;

Wednesday, 22<sup>nd</sup> May, 2024 at 09:00 a.m.

### PAERS TO BE LAID

The Chairperson, Select Committee of Public Accounts and Public Investments, Hon. Ken Ouko will table before this House the following report; Report on its consideration of the Auditor General's report and Financial Statements of;

- a) Muhoroni County Hospital for the financial year ended 30<sup>th</sup> June, 2022;
- b) Chulaimbo County Level IV Hospital for the financial year ended 30<sup>th</sup> June, 2022;

### NOTICES OF MOTIONS

The Chairperson, Select Committee of Public Accounts and Public Investments, Hon. Ken Ouko will give Notices of Motions on the following; That, this House adopts its Report on its consideration of the Auditor General's report and Financial Statements of;

- a) Muhoroni County Hospital for the financial year ended 30<sup>th</sup> June, 2022;
- b) Chulaimbo County Level IV Hospital for the financial year ended 30<sup>th</sup> June, 2022;

### SUBSTANTIVE BUSINESS

The Chairperson, select committee of Delegated County Legislation, Hon. Miriam Abeid will move a Motion for the adoption of the report on the Kisumu County Education Funds Regulations, 2023.

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Wednesday, 22nd May, 2024 at 02:30 p.m.

PAPERS TO BE LAID

The Leader of Majority, Hon. Kennedy Ooko, is expected to table a report of the Select Committee on Appointments on the Suitability of Mr. Jerome Okoth Ochieng' for the position of County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development.

*(Hon. Ochele rises on his feet)*

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Moses Ochele, what is it?

**Hon. Ochele** (MCA, East Kano Wawidhi): *(On a Point of Order)* Thank you Madam Speaker. The Honourable Member sitting in on behalf of the Leader of Majority seems not to be aware of the names of the Leader of Majority and this is because the Member keeps on referring to the Leader of Majority as Ken Ouko. I don't know whether the leadership structure has been altered? If not then, it is my belief that the Member is out of order and he should make correct references.

**Acting Leader of Majority** (Hon. Ratib, MCA, Nyalenda "A"): Thank you for that correction Hon. Ochele. Madam Speaker, I mentioned the names of the Leader of Majority as Hon. Kennedy Ooko. Madam Speaker, the names of Hon. Kennedy Ouko which I mentioned when reading the papers to be laid by the Chairperson, Public Accounts and Public Investments Committee who happens to be Hon. Kennedy Ouko.

NOTICES OF MOTIONS

The Leader of Majority, Hon. Kennedy Ooko, will give a Notice of Motion that this House adopts a report of the Select Committee on Appointments on the Suitability of Mr. Jerome Okoth Ochieng' for the position of County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development.

STATEMENT

Madam Speaker, on Statements, pursuant to the provisions of Order No. 41 (2) (b) of the Kisumu County Assembly Standing Orders the Member of County Assembly of Onjiko/Awasi Ward Hon. Maurice Otieno Ngeta will seek for a statement from the Chairperson, Standing Committee of Administration of Law, Justice and Legal Affairs, Good Governance and Security on the matter of Loss of Life and Injuries inflicted caused by Quarry and Steel Mining in Awasi/Onjiko Ward.

**SUBSTANTIVE BUSINESS**

The Chairperson, Select Committee of Public Accounts and Public Investments, Hon. Ken Ouko. I hope that this is noted by Hon. Moses Ochele will move a Motion for adoption of the Select Committee Report on the Examination of the Auditor General's Report and Financial Statement for Kisumu County Trade Fund for the fiscal year ended 2020/2021.

Thursday, 23<sup>rd</sup> May, 2024 at 02:30 p.m.

**SUBSTANTIVE BUSINESS**

The Leader of Majority, Hon. Kennedy Ooko will move a Motion for the adoption of the report of the Select Committee on Appointments on the Suitability of Mr. Jerome Okoth Ochieng' for the position of County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development.

Tuesday, 28<sup>th</sup> May, 2024 at 02:30 p.m.

**STATEMENT**

The Leader of Majority, Hon. Kennedy Ooko will issue a Statement pursuant to the provisions of Orders No. 41 (2) (c) on the Business coming before the County Assembly for the week commencing Wednesday, 29<sup>th</sup> May, 2024;

**SUBSTANTIVE BUSINESS**

The Chairperson, Select Committee of Public Accounts and Public Investments, Hon. Ken Ouko will move a Motion for the adoption of the Select Committee Report on the Examination of the Auditor General's Report and Financial Statement for Muhoroni County Hospital for the fiscal year ended 30<sup>th</sup> June, 2022.

Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Next order!!

**MOTION**

**ADOPTION OF REPORT ON THE STANDING COMMITTEE OF LANDS, PHYSICAL PLANNING, HOUSING AND URBAN DEVELOPMENT ON THE ENCROACHMENT OF RIPARIAN AREAS ALONG PAGA BEACH IN SOUTH WEST KISUMU**

**BY**

**HON. RATIB BOITONE, MCA, NYALENDA "A"**

(CHAIRPERSON, STANDING COMMITTEE OF LANDS, PHYSICAL PLANNING,  
HOUSING AND URBAN DEVELOPMENT)

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Boitone Ratib.

**Hon. Boitone** (MCA, Nyalenda “A”): Mr. Speaker and Hon. Members, pursuant to the provisions of Standing Orders No. 41(2) (b) of the County Assembly Standing Orders, the MCA for South West Kisumu ward, Hon. Jennifer Obonyo raised a Statement in this House on 8<sup>th</sup> August, 2023, regarding the encroachment of the riparian areas along Paga Beach. (See Annex 1- Statement)

In accordance with Article 185 of the Constitution of Kenya, 2010, Section 8 of the County Government’s Act, 2012 read together with the County Assembly of Kisumu Standing Orders No. 193, the Hon. Speaker instructed the sectoral committee on Lands, Physical Planning, Housing and Urban Development to make an inquiry, investigate and cause a report on the following in regard to this matter;

- i. Is there a regulation in place allowing such fencing?
- ii. What is the lasting remedy in place

LEGAL FRAMEWORK ON RIPARIAN AREAS

Physical and Land Use Planning Regulations;

Hon. Speaker, the Physical Land Use Planning Regulations, Part VII 21 and 22 provides as follows;

21. (1) Physical and land use development plans shall be prepared to guide utilization of land within riparian reserves in rural and urban areas and provide buffers for lakes, rivers, swamps and oceans beyond the riparian reserves where controlled development may be allowed.

(2) The plans prepared under paragraph (1) shall promote controlled utilization of riparian reserves as recreational areas, open spaces, green ways and as utilities corridors among other sustainable uses.

(3) In connection with the utilization of the riparian reserve or development of the area beyond the riparian reserve or both, the applicant shall be required to submit an Environmental Impact Assessment and Audit Report together with the development application.

22) The following standards shall apply during the measurement of riparian reserves for the purposes of these Regulations—

(a) for rivers, a minimum riparian reserve of ten metres or a reserve that is equal to the average full width of the river measured from the highest water mark, whichever is higher, but which

shall not exceed thirty metres, on either side of the river shall be maintained: Provided that in the case of a flood plain, the riparian reserve may be higher as may be determined by the Water Regulation Authority;

(b) for lakes, a riparian reserve of not less than one hundred metres and not more than two hundred metres as measured from the highest water mark shall be maintained for all lakes: Provided that in the case of Lake Naivasha, there shall be observed a contour of one thousand eight hundred and ninety-two point eight metres above sea level;

(c) for the Indian Ocean, a riparian reserve of three hundred metres as measured from the highest water mark shall be maintained;

(d) for swamps measuring more than one acre, a riparian reserve of at least fifty metres and not more than seventy metres as measured from the highest water mark shall be maintained;

(e) for dams, a riparian reserve of seventy metres as measured from the highest water mark shall be maintained for all dams: Provided that downstream of the dam, there shall be maintained a riparian reserve of at least twenty metres and not more than one hundred metres as measured from the toe of the dam as determined by structural engineer; and

(f) for springs, a riparian reserve of at least six metres as measured from the source of the spring shall be maintained.

#### COMMITTEE INVESTIGATIONS

Hon. Speaker, in a Committee meeting held to deliberate on this matter, the committee resolved to seek for information from the County Executive Committee member for Lands, Physical Planning, Housing and Urban Development.

Consequently, a letter of REF; CAK/CGK/CS/LPPHUD/8/22 dated 10<sup>th</sup> August 2023, requesting the County Executive Committee member for Lands, Physical Planning, Housing and Urban Development to respond to the issues raised in the statement on a date not later than 18<sup>th</sup> August, 2023 was delivered to the department through the County Secretary. (See Annex 2)

Hon. Speaker, the department failed to respond within this timeline. Consequently, the Committee in another meeting resolved to invite the County Executive Committee member to verbally respond to the issues raised in the statement. A letter of REF; CAK/CGK/CS/LPPHUD/8/23 dated 1<sup>st</sup> November, 2023 was delivered to the department, through the County Secretary, in this regard (See Annex 3)

Hon. Speaker, the County Executive Committee member appeared before the Committee on 9<sup>th</sup> November, 2023. The County Executive Committee member however apologized to the

committee for not having responded to the statement. He pleaded with the Committee to allow him respond to the issues within a period of two weeks.

Response by the County Executive Committee member on the issues raised (Annex 4);

Hon. Speaker,

The written response from the department of Lands, Physical Planning, Housing and Urban Development failed to highlight remedies that the department have put in place to prevent further encroachment of riparian areas.

#### COMMITTEE SITE VISIT

Hon. Speaker, the Committee carried out site visit at Paga Beach on 15<sup>th</sup> March, 2024 and established the following;

It is true that private developers have encroached the riparian areas along Paga Beach

However, in a meeting with the Paga Beach Management Unit, the Chairperson of the Beach Management unit submitted to the Committee that as the Beach Management Unit, their boundaries had not been interfered with.

#### COMMITTEE OBSERVATIONS

Hon. Speaker, The Committee made the following observations; That it is true that private developers have encroached the riparian areas along Paga Beach in South West Kisumu Ward

- i. That the response by the County Executive Committee member for Lands, Physical Planning, Housing and Urban Development failed to highlight the remedies put in place to prevent encroachment of the riparian areas
- ii. That there is need to create public awareness campaigns to educate residents, landowners, and businesses about the importance of riparian zones and the consequences of encroachment
- iii. That there is non-adherence to Physical and Land Use Planning Regulations, Section 21(3) which states that *‘In connection with the utilization of the riparian reserve or development of the area beyond the riparian reserve or both, the applicant shall be required to submit an Environmental Impact Assessment and Audit Report together with the development application’*

#### COMMITTEE RECOMMENDATIONS

Mr. Speaker and Hon. Members,

The Committee recommends to this House to resolve as follows;

1. That the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development in collaboration with other agencies, initiate a baseline survey to establish the extent of encroachment of riparians along all the beaches within Kisumu County and a report on the same be submitted to this Assembly within a period of 90days upon adoption of this report

2. That going forward, the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development must ensure strict enforcement of existing laws and regulations that prohibit encroachment and development within riparian zones.
3. That going forward, the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development must ensure that monitoring mechanisms are strengthened and where applicable, penalties are imposed on violators of the laws protecting riparians
4. That the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development launch public awareness campaigns to educate residents, landowners, and businesses about the importance of riparian zones and the consequences of encroachment. A report on the initiation of this process be submitted to this Assembly within a period of 90days upon adoption of this report
5. That the County Executive Committee member, Lands, Physical Planning, Housing and Urban Development to seek for collaboration with the National Government and conduct accurate demarcation and mapping of ALL riparian areas in Kisumu County to clearly delineate boundaries and prevent further encroachment.
6. That going forward, the County Executive Committee member, Lands, Physical Planning, Housing and Urban Development should consider fostering community involvement in riparian protection efforts through the establishment of community-based organizations or committees tasked with monitoring and safeguarding riparian zones. The community members should be encouraged to take ownership of their natural resources.
7. Land Use Planning and Zoning: That the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development must ensure that the activities within the riparian areas align with the recently launched Kisumu City Local Land Use Development Plan that designate riparian areas as protected zones with specific land use restrictions.
8. That going forward, Pursuant to Planning and Land Use 2019 regulations, the County Executive Committee Member Lands, Physical Planning Housing and Urban Development makes it a mandatory requirement for any developer to submit an Environmental Impact Assessment (EIA) for any proposed development projects near riparian zones. This will help assess potential environmental consequences and identify measures to mitigate negative impacts.
9. That the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development develop programs for the restoration and rehabilitation of degraded riparian areas. This may involve replanting native vegetation, stabilizing riverbanks, and restoring natural habitats to enhance ecosystem resilience.
10. That the County Executive Committee Member Lands, Physical Planning, Housing and Urban Development immediately establish a system for long-term monitoring and

evaluation of riparian areas to track changes over time and assess the effectiveness of implemented measures.

#### CONCLUSION

Hon. Speaker, I hereby request this House to adopt this report on the encroachment of the riparian areas along Paga Beach. May I now call upon Hon. Moses Ochele to second this report?

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Moses Ochele.

**Hon. Ochele** (MCA, East Kano Wawidhi): Thank you Madam Speaker. I have been accorded a very easy task and this is a task that is different from others and I believe my friend and colleague Hon. Swaggah (Hon. Joachim Oketch) is very much at ease and not bothered because the Member has no etiquettes to burn this is because, it is just a recommendation and subsequent approval and not expunging and withdrawing.

*(Laughters)*

Madam Speaker, I had to bring that up because this House has been earmarked as a House of debating positively and approving Committee Reports of trips, benchmarking and site visits like the one my Chairperson has just taken us through. Madam Chairperson, it is my belief that even if I don't say much the report itself is self-explanatory and looking at the faces of the Honourable Members, I am seeing no dissenting voices because it is as direct as the report itself.

Madam Speaker, I will not forget to state that, as a House Committee we actually visited Paga Beach and the good thing that we found in our visit to that place is the fish that we ate. We got some good fish and I carried some home. Madam Speaker, the actual reasons for our visits was just to ascertain that indeed there were encroachments on the beach and we realized that there was serious encroachment. However, the Beach Management Committee (BMC) were aware of the encroachers and could not divulge. That means that they could have been part and parcel of the encroachment or is a way they have been sweet talked to defend the encroachers.

Madam Speaker, encroachment in an issue along the Kenyan beaches most so along our Lake Victoria. Madam Speaker, this is not only happening in Kisumu South West Ward, it is across all the wards within the beach. Encroachment is live, safe for Kabonyo/Kanyagwal Ward where you cannot encroach because the water itself is really encroaching on dry lands. Madam Speaker, when we talk on encroachment it is not just encroachment about the lakes but encroachment could also be observed along our lake shores. For example, some of us who come from Nyando Sub-County we have River Nyando, which has got an area here marked as a riparian area with serious embankments of 30 metres from the Lake shore, and today, Madam Speaker, this area has been encroached by farmers who plant sugarcane. So, when the river water comes from the hills, it comes with debris and this debris gets stuck by this sugarcane and thus causing the water

to blue zoom its death and overflow the dyke. That is a serious cause of flooding in Ahero Ward, East Kano Wawidhi Ward, and part of Ombeyi Ward because our people have taken the Law into their own hands and encroaching that which is to be preserved as riparian area.

Madam Speaker, this report should not just be sent to the County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development, but it should also be sent to the County Executive Committee Member for Water, Environment and Natural Resources and Climate Change because when I talk of a riparian area being encroached, we are not limited to planning but we extend to these other departments whose areas have been abused.

Madam Speaker, finally, certain statements are brought to inform the public on the performance of the County Executive, like encroachment. Encroachment is a task that should be undertaken by the County Executive, not just by the Assembly but it is like they slept too much that people have taken the advantage of that slumber and decided now to construct and develop lands towards the lake. Therefore, this should be a wake-up call that every County Executive Committee Member and their teams should be awake all the time, alert, vigilant, and ensure that what should be preserved, is preserved for the goodness and betterment of the citizenry of Kisumu County. Thank you, Madam Speaker, I second.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Honourable Members, now that the report by the Standing Committee of Lands, Physical Planning, Housing and Urban Development on the Encroachment and Riparian Land along Paga Beach in South West Kisumu Ward has been presented and seconded as per our Standing orders. I propose that this report by the Standing Committee of Lands, Physical Planning, Housing and Urban Development on the Encroachment of the riparian Reserves is now open for debate.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes, Hon. Reuben Rakwach.

**Hon. Rakwach** (MCA, Kolwa East): Thank you, Madam Speaker; I rise to support this motion by the Standing Committee on Lands, Physical Planning, Housing and Urban Development. The reason why I am in concurrence with this report is this recommendation number seven that talks about the land use, planning and zoning.

Madam Speaker, I believe that there is laxity by some of the County Government Officers in the Department of Lands because zoning has been done and we know that riparian lands are protected zones. Then, before any developer does a project within the County, it is the Department of Lands that issues the approval. So, first, the Department of Lands should first investigate so that they know all those developers who have encroached the riparian lands and who issued them with approvals, contrary to the Land use Planning and Zoning that had been done. At the same time, Hon. Speaker, there are some Regulations that also need to be relooked into for instance when the Chairperson for the Standing Committee of Lands was reading the

report, we realised that there is a Regulation that; for Rivers, it is either 10 metres or the width of the river whichever is bigger from the highest point of the river, forms the riparian zone, which is protected. However, we again realised that sometimes the river may also encroach, erosions do happen on the river banks so that you realize that with time, even if we go by such rules then even private lands may also be encroached. So, as we condemn this practice of encroaching of riparian lands, let us also protect our shorelines and our riverbanks so that we do not have a situation whereby the rivers and the lakes are encroaching on the public lands. For example, when you go to Nyalenda “B” now, you will realize that the lake has also encroached into private lands and people are now moving away from their lands. So, let us also protect the private lands. Otherwise, I support the report, I thank you Hon. Speaker.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Joachim Oketch.

**Hon. Oketch** (MCA, Kondele): Thank you very much Madam Speaker. I do not know why you have taken some seconds to mention my name. I know you wanted to call me Hon. Swagga.

**The Temporary Speaker** (Hon. Oginga): (*laughs*) Honourable Member, actually, I could not see you well and thought you were Hon. Peter Obaso

**Hon. Oketch** (MCA, Kondele Ward): Okay, we are all tall, dark and handsome men so; I don't blame you if you confuse me with my brother and friend. Madam Speaker, I also rise to support the report by our Hon. Chairperson and I trust that this report is timely.

Madam Speaker, there was a time Nairobi County; I believe that was in the previous Government, and Kiambu County Government came out very strongly regarding this riparian land and there were a lot of demolitions. So, back then we had hoped that Kisumu County would also be roped in and also demolish those structures that were built along the riparian land. Of course, as a County, we came up with a Law which was to protect these riparian lands but no action had been taken up to date. Madam Speaker, I also want to thank the Hon. Member who raised the issue because just from the report, you are able to see the importance of this section of land. It is a buffer zone and actually it plays a very important role in our ecosystem. So, there is a lot of laxity in our County and this does not only apply to Paga Beach we have a lot of riparian lands and we even have floods and backflow that have been occasioned by people who have encroached these areas.

Madam Speaker, the County Government has spent a lot of money into tunes of millions of shillings, trying to rescue even those who have encroached on riparian land, Madam Speaker. That is why I believe that this House Committee did well and I believe that now the point where the County should head on is taking action. This report has gone even further to mention areas that have been encroached, the properties that have been erected in those areas up to businesses and even private lands or private property, Madam Speaker. Therefore, I believe that the County

should make it very serious. Madam Speaker, I know that there is a lot of conflict of interest in these areas, and I know that even there are staff who have encroached in these areas because they work within the County Government and they know that nothing will happen to them. We are even aware of approvals from our own County for private properties to be erected in these areas.

Madam Speaker, I believe that this is not just a report that should end with Paga Beach but it should be a wider net so that even areas of Nyalenda both “A” and “B” be included so that we know areas where have been encroached, and the County Government to take serious action. We know that our Governor, I mean even in their first term, had planned to make Kisumu face the Lake. We have been told that Kisumu is facing the opposite, so, the Governor wants to make Kisumu City to face the Lake, but we cannot face a Lake that has been encroached; we cannot face a lake that has been polluted. Therefore, I want to support the Chairperson and I will be pleased if it goes with the Governor’s Manifesto of working on the Lakefront. I know we have spent millions if not billions of shillings in ensuring that the lakefront works. I know that there is a lot of donor funding. Even the Kenya Urban Support Program II that is coming. There is a lot of money that has been earmarked to be used on our lakefront. Let us not spent money where we know there are serious encroachments. Let us not spend money where we know there are areas of pollution. I therefore want to thank the Chairperson and this House Committee for the good work and I stand to support, thank you very much.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Tom Onditi.

**Hon. Onditi** (MCA, Ombeyi): Thank you very much Madam Speaker. Madam Speaker, I also rise to support the report that has been read by the Chairperson, Standing Committee of Lands, Physical Planning, Housing and Urban Development. As it has been said here, this report is not only direct, as it has been read but it's so important because it does come at the right time.

Madam Speaker, as I want to appreciate this House Committee, allow me to also thank the Member who raised this statement. Some statements inform the problems that happen beyond the areas that were requested in the statement by the member for instance, this report, Madam Speaker. I pray that this report will not follow the queue of the reports that are being passed in this House and finally get to rest permanently in the shelves of the departments. I also want to call upon the Select Committee on Implementation to follow up with the department to ensure that this report is implemented.

Madam Speaker, the issue of encroachment has become a culture in this county, particularly in areas like where I come from, a lot of problems that we go through as a result of floods Madam Speaker, happened because the areas that were reserved as riparian areas have been adversely encroached and have been turned into farms and homes to the extent, Madam Speaker even when there is flood and the government comes in to rescue or to open up the waterways, there is no

places where the machinery like excavators can navigate through so that you open up those waterways to the extent Madam Speaker, it creates conflict between the community that the government is helping to rescue with the contractors that have been assigned there. The streams along the areas where we come from, particularly Ombeyi, Madam Speaker, riparian areas are now permanent homes and farms. Sometimes people cry for help, but when you go there to help them you don't even have a place where that these machineries can use to access the areas to help open those places. So that whatever we do here, still if this place are not reserved, if you look at this report Madam Speaker, It talks about demarcation of those areas, monitoring, enforcement and public awareness on the community around those areas. Sometimes these things happen because sometimes we are not aware that up to what extent a riparian area is. It is my belief that it is upon the government and particularly the departments concerned to ensure that serious public awareness activity is establish within those areas, so that people can know to what extent they can go closer to the streams, rivers or any other waterways and again, even if those are done and no monitoring mechanism or enforcement mechanisms are put in place, people will again go back because human beings have a tendency of forgetting. So, even if you do it now and there is no mechanism for monitoring those things and enforcing the laws.

Madam Speaker, it is my prayer that this report gets the necessary attention it deserve so that we get people off the riparian areas, particularly those ones that are closer to serious waterways like River Nyando and any other streams that our people live around. Otherwise, Madam Speaker with those few remark, I stand to support the report. Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Bill Odhiambo.

**Hon. Bill** (MCA, Kobura): Thank you Madam Speaker, I want to...

**Hon. Dede** (MCA, Kisumu North): (*Interjects*) Madam Speaker, seniority.

**Hon. Bill** (MCA, Kobura): Madam Speaker, there is a member who is misbehaving.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Honourable Member, Order!! It is the Chair to decide who is supposed to speak, go on Hon. Bill.

**Hon. Bill** (MCA, Kobura): Thank you Madam Speaker, I am happy that you have recognized me among other senior Members, Madam Speaker; the report comes in timely because, one, today the Assembly was wetting the nominee for appointment to the position of County Executive Committee Member for Lands, Physical Planning, Housing and Urban Development and again, Madam Speaker, we've been having trouble or rather problems with the climate change factors that we have right now. For the first time river Nyando, if you talk to elders, they tell us that

what happened a few weeks ago which happened in 1963. So, Madam Speaker, if you look at the report by this House Committee on Paga Beach, it clearly shows us that we have people who have encroached, even hotels. Madam Speaker, the discussion today all over the world is about Climate Change, yet we still find people not following the laws of the land that are set for areas where the rivers and lakes.

Madam Speaker, it is my humble plea that we should not let this report sit somewhere and gather dust. I will have wished that we had the Chairperson, Select Committee on Implementation here with us so that this report is followed and the implementation part of it is done.

Madam Speaker, if you look at the current climatic change, what is happening, the rains, you realize that many people are being affected by the rains, we have floods all over. We can't control natural calamities, but there are some things we can control, like people living around the riparian lands. There should be a public participation or public awareness program conducted so that our people know why they should not be staying around or doing activities on riparian lands. Madam Speaker, for example, areas like in Nyando and all the wards there, now if you would want to do disilting, it is a struggle because you realize that even on the riparian lands where the machines are supposed to access through, you realize people have planted there. So it is an idea that needs to be disseminated to our people so that they understand what the riparian lands do to us, because from the report, we see that one they act as buffer zones between the water bodies and humans.

Madam Speaker, the other thing that we have gathered from the report, is that they also protect human activities and you also see that it helps build the ecosystem because you see some breeds of fish, lay their eggs near the riparian lands because of the climatic conditions around that place. So, we should also as Members and people of Kisumu County, not take these matters lightly because the moment we start interfering even with a fish, it means that the main activity of people of Kisumu is going to be interfered with. So I support this report and I believe that it is not going to sit on a corner to gather dust. It is my hope that it gets implemented. Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes, I will go with gender and I will give it to Hon. Ajumbo.

**Hon. Ajumbo** (MCA, Central Seme): Thank you Madam Speaker, I have been on my feet for the past twenty minutes and I don't know whether I am short and that is why you have not been seeing me Madam Speaker.

Madam Speaker, I want to add my voice to the report by the Standing Committee of Lands, Physical Planning, Housing and Urban Development on the encroachment of the lake front, sorry Madam Speaker, on the encroachment of the land around the lake, riparian land.

Madam Speaker, I want to support the report presented by this House Committee and say that we support this report. Madam Speaker, It is high time and going by the recent climatic conditions and the flooding and everything that we are experiencing, actually it is global and not just in Kisumu County. So, what has happened to the encroachment of the riparian land is a good example of what is happening Nairobi county and quite a number of families have been displaced because people are now freely building along the riparian lands yet we have existing laws and regulations that can prohibit encroachment.

Madam Speaker, I want to agree with the recommendations provided by this House Committee on what the county government should do by enforcing certain laws that can prohibit people from encroaching in the riparian land. Madam Speaker, if you look at the economy around the lake, you will realize that even the fish has gone down. We used to harvest a lot of fish from the lake and other rivers, I don't know why Hon. Onditi is looking at me when I just mentioned fish, but I want to believe that because of encroachment it has affected the ecosystem along the rivers.

Madam Speaker, I do not want to repeat what my other colleagues have said but, it is high time we support the recommendations of this House Committee that I will not repeat so that the Select Committee on Implementation moves with haste to ensure that these recommendations are implemented. Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes, Hon. K'Omudho.

**Hon. K'Omudho** (MCA, Muhoroni Koru): Many thanks Madam Speaker and Honourable Members, I arise here this Tuesday afternoon to support the report by Standing Committee of Lands, Physical Planning, Housing and Urban Development. I will not do the summary, because it looks like the House is already tired. Madam Speaker, when you see Members walking outside that is a sign of fatigue. I want to do the summary and in short I want to request that the report is wonderful, quite detailed and very particular. Madam Speaker, you remember, to those who are familiar with the capital city, this thing was seriously implemented during the Michuki's time and a number of structures along the riparian land were brought down and I want to inform you that the capital city, today, is properly organized and the rivers can flow.

Madam Speaker, one of the reasons that we have heard serious flooding, especially where I come from Muhoroni/Koru which borders the Rift Valley where River Nyando originates from, there were very serious flooding because of encroachment. Let us have this report taken very seriously through the Select Committee on Implementation and forthwith forwarded to the relevant department in the County Executive for implementation. I support this report 100%. Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Honourable Members, I will give this chance to Hon. Omuya.

**Hon. Omuya** (MCA, North Seme): Thank you Madam Speaker. I want to take this opportunity to congratulate this House Committee for the good work and I am standing to add my voice on supporting the work on the report.

Madam Speaker, funnily, Hon. K'Omudho was talking about Nairobi being organized unless the Nairobi the Member is talking about is not the one in Kenya because we know how Nairobi is, it has never been organized maybe if you talk of Kisumu. Madam Speaker, I want to say this, from this report, my biggest concern lies in mining. Personally, my ward does not have a lake but when you come to my ward there is a lot of Gold Prospecting. If you have never known there is gold in West Seme, there is a lot of it. We have a lot of gold, so my biggest problem is mining and mining is consuming my rivers.

Madam Speaker, apart from mining, there is equally harvesting of Sand. It is also consuming the roads that we are spending so much money constructing. I just wish that the chairperson, Select committee on Implementation was here so that maybe for the first time if the Member has never done any work, I am just pleading with the Member to take these reports from the Standing Committee of Lands, Physical Planning, Housing and Urban Development as a priority. This is because, if we are not careful and we just leave the report somewhere to collect dust, I believe we shall be doing a lot of disservice to our people. So, I support the report and I believe it will give us the best outcome. Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. James Omollo.

**Hon. Omollo** (MCA, West Nyakach): Thank you Madam Speaker, at this juncture and looking at the mood of the House, I would like to call the mover to reply.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Dede, do you still want to contribute?

**Hon. Dede** (MCA, Kisumu North): Yes Madam Speaker I want to contribute because I am not the mover.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Okay, go ahead.

**Hon. Dede** (MCA, Kisumu North): Thank you Madam Speaker for according me the opportunity to also air my sentiments concerning the report on the Floor.

Madam Speaker, indeed the riparian land along Paga Beach has been interfered with, although this House Committee travelled to South West Ward to inform us over the riparian land, they did not specify this because they travelled to the site being that the riparian land between the lake

and the region should be about not less than 100 meters and not more than 200 meters. They have not specifically about the encroachment of the area being that there was an encroachment but we don't know of what level. Perhaps, there was no encroachment but they should have specified that the encroachment was to done a certain level.

Madam Speaker, concerning this House Committee observation they made while conducting this site visits, you will find that during their visit, the region they visited where there was purported encroachment the House Committee should have specified to what depth was this activity done? Madam Speaker, the recommendations this House Committee has made is good. Madam Speaker, let us ensure that the recommendation provided by this House Committee servers well and when followed, things shall be in order. Thank you.

**The Temporary Speaker** (Hon. Oginga Nominated Member): Yes Hon. Oraro.

**Hon. Oraro Kelvin** (MCA, Kolwa Central): Thank you Madam Speaker, I support the reports and the team, the committee members and secretariats that contributed a lot to come up with this report. The motion that is being discussed today might be like any other motion and any other report but, how I wish we see this as a feature for Kisumu County and a future for Kisumu City.

Madam Speaker, one of the things that make us unique is that our land is adjacent to the lake and in fact the second largest Lake and I believe that in the world and for that main reason we can go on record that we have not used our lake well and the riparian areas have been left by the County Government to private developers and they do not have a say on the same land.

Madam Speaker, there are other proposals that tarmacked roads should be done right from Busia passing almost closed to the riparian lands up to Mihuru Bay so that they tend to expand that area and we use the lake well, but unfortunately, it is clear in our mind that most of the things or most of the land next to the lake have been taken by very rich people and I don't know if they will ever allow for legislation or anything that can make the government plan with the riparian land. I have witnessed many hotels next to the lake and as Assembly we must take a keen interest and know where the demarcation starts from within the city and know even the owners of the land to an extent that if you were to talk about an investor coming, we can actually talk about the riparian land well.

Madam Speaker, recommendation number five was trying to explain about collaboration with the national government. That is an important area that you must consider, other places like Kabonyo/Kanyagwal, Kolwa Central, Nyalenda "B" that is adjacent to the lake we have a problem with the back flow, we have a problem with the sand that tends to block the rivers as they enter the lake, and for that reason there are equipments and machineries like water master

that are needed to always do distillation so that we remove the sand from the lake and even allow those who are doing Sand Harvesting to harvest the sand that have accumulated to give waters free-way entry to the lake and to avoid more wet areas.

Madam Speaker, if someone asks you about Kapwothe, it results from silt accumulation in the lake, preventing the Nyamasaria River from entering it. To protect our riparian land, we need to collaborate with the national government and identify areas that need protection at the county level. We must also ensure investors do not exploit our resources.

Madam Speaker, for that reason, I support the mover's report and emphasize that it should not merely be approved but actively implemented. We should have a map in the assembly indicating county-owned riparian land and monitor its usage by developers. If developers misuse the land, we must enforce regulations to address this. Clear guidelines for investors regarding land use near the lake should be established to ensure sustainable development. Madam Speaker, approving this motion is just the first step; we need to work together to protect our riparian land and build our county. Thank you, Madam Speaker.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Yes Hon. Obaso.

**Hon. Obaso** (Nominated Member): Madam Speaker, to avoid so much repetition, I would like to call the mover to reply, Thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Thank you, yes Hon. Boitone.

**Hon. Ratib** (MCA, Nyalenda A): Thank you, Madam Speaker. I have made reference to the provisions of the Kisumu county Assembly Standing Orders and I have never witnessed in any area that stipulates, or outlines, or stipulates that after a Member has deliberated on a motion the Member should walk out. Madam Speaker, I was very attentive during the deliberations, and I must note that more than ten Honorable Members contributed to this motion, yet only three remain in this Honorable House.

Madam Speaker, when I reply, I intended to address each individual's contribution, but unfortunately, many are no longer present. It appears that some Members spoke only because they had the opportunity to do so. However, Madam Speaker, if we examine the recommendations presented, which I previously mentioned are ten in number, these form the foundation of this report. If these recommendations are followed diligently, I believe that all our riparian land in Kisumu County will be well protected.

Madam Speaker, I want to thank the Honourable Member who brought this statement to this House. The House Committee's recommendations extend beyond the specified beach to include all the beaches in Kisumu County.

Madam Speaker, one of the recommendations mentioned here, and highlighted by a Honorable Member, concerns laxity. Laxity arises because the approval of building structures along these beaches is managed by the county government. If the county government is serious, they should halt the approval of these structures.

Hon. Reuben Rakwach mentioned that river sizes sometimes expand due to erosion. This is true, and we were given measurements for riparian land in relation to rivers. However, if a river expands due to erosion, the relevant authorities will know where the riparian land begins. The measurements should not change because the river size has increased. The maps remain constant; they do not expand or contract. Therefore, when we measure the riparian land concerning rivers that have expanded, accurate measurements should be provided based on the area's map.

Madam Speaker, areas where locals have encroached and built structures along the lakes should be included in the concerns about laxity when the county government issues approvals. I'm pleased that one of our Honourable Members mentioned that some county officials collude with others to approve these plans. This practice must end, and I trust it will be addressed.

Madam Speaker, our recommendations were not limited to Paga Beach; they aim to safeguard all beaches and riparian lands, ensuring proper ecosystem management.

Madam Speaker, one Honourable Member deviated from the motion by bringing up Sand harvesting and God Mining. I struggled to see the connection, as my statement focused on riparian land along Paga Beach, which we have extended to other beaches in our recommendations. If sand mining is an issue in their ward, they should bring it up separately.

Madam Speaker, Hon. Dede inquired about how we measure encroachment areas. I mentioned these measurements at the beginning of the report, clearly outlining the criteria for rivers, lakes, and other waterways. Hon. Dede, please pay closer attention when a motion is being presented in this honorable house.

Madam Speaker, Hon. Oraro, recommendation number five, which you highlighted, is very clear. It states that the county government's County Executive Committee Member should collaborate with the national government to conduct accurate demarcation. This will help us determine precisely where our riparian land begins and ends. Furthermore, we have recommended that some beaches be fenced by the Beach Management Committees present at various locations. Regarding your point about maps and understanding of our riparian land, I want to inform you that the department has already established a Geographical Information System (GIS) lab at the ninth floor of the Prosperity Building. This GIS lab is operational and provides detailed information on the placement and status of various elements within the county.

Madam Speaker it is my pleasure to reply and I want to thank all members for their contributions I reply thank you.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Honourable Members, now that the report by the Standing Committee on Land, Physical Planning, Housing and Urban Development on the Encroachment on Riparian areas along Paga Beach in South West Kisumu Ward, have been presented, seconded and debated, I therefore want to put a question on the adoption of the same?

*(Question put and agreed to)*

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Honourable Members, the report by the Standing Committee on Land, Physical Planning, Housing and Urban Development on the Encroachment on Riparian Areas along Paga Beach in South West Kisumu Ward is hereby adopted today Tuesday, 21<sup>st</sup> May, 2024 at 16:13 hours.

Honourable Members, I direct that the report together with the Hansard report be submitted to the relevant department for further action or implementation and that the Select committee on Implementation to follow up on the implementation of the same within a period of 90 days.

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Next Order!!

## **ADJOURNMENT**

**The Temporary Speaker** (Hon. Oginga, Nominated Member): Honourable Members, there being no any other business to transact, this House stands adjourned to Wednesday, 22<sup>nd</sup> May, 2024 at 9.00 a.m.

*(House rose at 04.14 p.m.)*

*Addendum*

**Hansard Team**

<i>Zablon Otiende</i>	-	<i>Senior Hansard Reporter (Acting Editor)</i>
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