COUNTY GOVERNMENT OF KISUMU

COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – THIRD SESSION

Tuesday, 11th June, 2024

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 today.

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

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I have got two communication to make. One is that the FESTAC Festival to be held in Kisumu which is scheduled to be held in the month of August. This festival was to be held sometimes back and it was postponed to the month of August 2024 due to floods that were experienced in most part of the City. I have been requested to inform the Sport Committee that the County Assembly shall be required to register a team especially football men at the commencement of this festival. The program is being drawn on which teams will participate but the programme is being prepared to enable you participate in the tournament.

Honourable Members, this is our event and as the host, it is important that we be part of it. I can see the Vice Chairperson of the Committee on Sports Hon. James Were, I haven't seen the Chairperson but you organize for the full participation in the festival because August is just near.

Honourable Members, I also want to make communication on a matter of procedure for seeking Statements pursuant to Standing Order No. 41 (2) (b). This communication is based on the matter on procedure on the manner of seeking Statement from the Chairperson of House Committees. Honourable Members as you recall on Wednesday 29th May, 2024 during the afternoon sitting, the Member of Market Milimani Ward, Hon. Seth Kanga rising on Standing Orders No. 41 (2) (b) sought a Statement from the Chairperson of the County Assembly Service Board.

Honourable Members I wish to mention at the onset of that the position provision of Statements in our Standing Orders is expressly provided for in Standing Order No. 41 (2) (b) as follows;

A Member may request for a Statement from a committee Chairperson, underline committee Chairperson, relating to Matters under the mandate of the committee. And, The Speaker may appoint a day for the Statement to be made or direct that the Statement to be issued on the same day, that is Standing Order No. 41 (2) (b).

From this Standing Orders, the same Standing Order No. 41 (2) (b) it is immediately observed that, a Statement may only be sought from a Chairperson of a House Committee, and that the committee referred to pursuant to this Standing Order is a House Committee within the contemplation of the Standing Orders No. 193. or Orders providing mandates of Select and provision House Committees. Be informed, that it was in the mind of the drafters of these Standing Orders; that the House Committee contemplated in the Standing Order No. 41 (2) (b) must be a House Committee with the capacity to perform functions which the County Assembly in session is not fit to perform in its corporate form.

Honourable Members, whereas the provisions of Standing Order No. 41 (2) (b) also notes with it is the right of Members to seek Statements from a House Committee Chairpersons, such rights is not without limitations. Further, whereas, it follows therefore that the Statement sought pursuant to Standing Order No. 41 (2) (b) must one; be sought from a Chairperson of a House Committee established in accordance with the provisions of this Standing Orders. And two; be on matters within the mandate of the said House Committee.

Thus, based on the Statement made by Hon. Seth Kanga, I find that the Statement that was sought from the Chairperson of the County Assembly Service Board. As a matter of right the Honorable Member ought to have responded to. However, having noted that the reading of the Standing Order No. 41 (2) (b) contemplated a House Committee. The County Assembly Service Board being a corporate body pursuant to Section 12 of the County Assembly Services Act 2017, is in itself neither a question of the Standing Order nor a House Committee of the County Assembly within the meaning of the Standing Order No. 41 (2) (b).

This Honourable House only then needs those that in what manner or with what procedure is the Chairperson of the County Assembly Service Board to respond or provide the Statement with the

Honourable Member who sought the Statement that is Hon. Seth Kanga. Honourable Members, I have also observed that from the reading of this Standing Orders No. 41(2) (b), there may be an attempt from this House to restore upon the Chairperson of the County Assembly Service Board the capacity to respond on the Floor as any other Chairperson of a House Committee since the Chairperson of the County Assembly Service Board who is the Speaker of the Assembly, and as some members of the County Assembly Service Board are also Members of the County Assembly. However, I find such an attempt to be unprocedural and therefore voidable pursuant to the dictates of the Standing Orders since by bestowing such powers to the Chairperson of the County Assembly Service Board to respond to the Floor of the House, this House will immediately injure the cooperate bail of the County Assembly Service Board pursuant to section 12 of The County Assembly Service Act, 2017, which will then raise an assumption that the County Assembly Service Board in itself is a House Committee within the contemplation of Standing Order number 41(2)(b).

Honourable Members, I further wish to note that the cooperate character of the County Assembly Service Board does not immunize the County Assembly Service Board from the County Assembly oversight, but instead places it within the County Assembly oversight reaches pursuant to Article 185 of the Constitution, Section 8and 9 of the County Government Act, 2012, these are provisions which consequently give effect by section 36 of the County Assembly Service Act 2017. Thus, the County Assembly Service Board, like any other Cooperate bodies within the County Government, may only be oversighted as a sector by a relevant County Assembly Sectoral Committee. It is thus found that even though a statement has been raised and consequently committed to the County Assembly Service Board jointly with the Committee on Labour and Social Welfare, the manner of comital being an attempt at remedying the procedural breach that was already committed, is in itself not an appropriate remedy but further has abates the breach that has already been committed

Honourable Members, the committal of the statement is but a declaration that the Standing Committee of Labour and Social Services and the County Assembly Service Board is being jointly committed to handle the matter are legally equal. This is acutely not legally sound since one is an instrument of oversight, while another is a cooperate body with a power to sue and to be sued and therefore is not be oversighted like any other cooperate body within the County Government as a sector within them meaning the stored on Sectoral Committees pursuant to our Standing Orders.

Honourable Members, you will also recall that on Thursday 22nd February, 2024, I made a ruling in regards to procedures for statements particularly on procedures that are to be fulfilled before a statement is sought on the Floor of this House. I only need to remind this Honourable House that the ruling was necessitated by the need to guide this House on the manner of handling statements, and where I drew on a full range of procedural information, and examined the precedence of Parliament to determine how the rules of procedures have been applied and

interpreted in the past situations to the manner of handling statements. In the ruling made on Thursday 22nd February, 2024 it was as follows;

1. All statements shall be serialized for the purpose of record keeping.
2. The House Business Committee shall approve all statements and schedule the same in the Order Paper.

Honourable Members, I have therefore further found that despite the earlier mentioned procedural breaches of the statement sought by Honourable Member of Market Milimani, the statement additionally did not fulfil the basic established procedures pursuant to the ruling made on Thursday 22nd February, 2024. For avoidable of doubt, I did mention that the Speaker's Rulings constitute precedents by which subsequent Speakers Members and offices are guided and such precedents are formulated as rules of procedure or followed as conventions of this House. Therefore, in order to further the oversight intent of Hon. Seth Kanga pursuant to this Statement, and remedy the procedural breaches already mentioned, I wish to direct that;

1. The statement be sought procedurally both in its contexts and a manner of seeking statements in accordance with Standing Order No. 41 (2) (b) and the Speaker's ruling made on 22nd February, 2024.
2. That the consideration of the statement is temporarily be differed awaiting new submissions in accordance with the Standing Orders.

The House is properly guided.

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

PAPERS LAID

REPORT OF WATER, ENVIRONMENT AND NATURAL RESOURCES AND CLIMATE CHANGE COMMITTEE ON THE STATUS OF WATER PROJECTS WITHIN THE KISUMU COUNTY

BY

HON. SAMUEL DEDE, MCA, NORTH WARD

(CHAIRPERSON)

REPORT OF IMPLEMENTATION COMMITTEE ON LABOUR AND SOCIAL WELFARE SERVICES ON THE PETITION BY THE RETIREES OF THE DEFUNCT AHERO AND NYANDO LOCAL AUTHORITIES ON THE MATTER OF VERIFICATION OF PENDING CLAIMS OF RETIREES OF THE DEFUNCT LOCAL AUTHORITIES

BY

HON. JAMES WERE, MCA, NYALENDA "B"

(VICE-CHAIRPERSON)

(Report laid on behalf of the Chairperson, Hon. Henrietta Bodo)

The Speaker (Hon. Oraro): Hon. Samuel Dede

Hon. Dede (MCA, Kisumu North Ward): Thank you Mr. Speaker, pursuant to the provision of Orders No. 182 (6) of the Standing Orders, I wish to table today Tuesday 11th June, 2024 a Report of Water, Environment and Natural Resources and Climate Change Committee on the Status of Water projects within the Kisumu County. Thank you.

(Hon. Dede lays the report before the House for consideration)

The Speaker (Hon. Oraro): Honourable Members, the Standing Committee on Water, Environment and Natural Resources and Climate Change Report on the Status of Water Projects within the Kisumu County is properly laid before the House and the House Business Committee to consider it for purposes of scheduling it for debate.

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

Hon. Were (MCA, Nyalenda "B" Ward): Thank you Mr. Speaker, pursuant to the provision of Orders No. 182 Sub Section (6) of the Standing Orders, I wish to table today Tuesday 11th June, 2024 a Report of Implementation Committee on Labour and Social Welfare Services on the Petition by the Retirees of the Defunct Ahero and Nyando Local Authorities on the Matter of Verification of Pending Claims of Retirees of the Defunct Local Authorities. Thank you.

(Report laid on behalf of the Chairperson, Hon. Henrietta Bodo

The Speaker (Hon. Oraro): Honourable Members, the Select Committee on Implementation Status of the House Resolution on the Report by the Committee on Labour and Social Welfare Services on its Consideration on the Petition by the Retirees of the Defunct Ahero and Nyando Local Authorities on the Matter of Verification of Pending Claims of Retirees of the Defunct Local Authorities is properly laid before the House and the House Business Committee to consider it for purposes of scheduling it for debate.

The Speaker (Hon. Oraro): Next Order!

NOTICES OF MOTION

Speaker (Hon. Oraro): Yes Hon. Samuel Dede.

Hon. Dede (MCA, Kisumu North Ward): Thank you Mr. Speaker, the first one to the provision of Standing Orders 45(1) of the Kisumu County Assembly Standing Orders, that this House

adopts the Report of Water, Environment, Natural Resources and Climate Change on the Status of the Projects within The County, thank you.

Speaker (Hon. Oraro): Hon. James Were.

Hon. Were (MCA, Nyalenda "B"): Thank Mr. Speaker, I rise to give a Notice of Motion that pursuant to the provisions of the provision to Orders 45 (1) of the Kisumu County Assembly Standing Orders, that this House adopts the Report of the Select Committee on Implementation on Report by Labour and Social Welfare Services on Petition by Retirees of Default Ahero and Nyando Local Authorities on the Matters of Verification of Pending Claims of Retirees of the Defunct Local Authorities, thank you.

Speaker (Hon. Oraro): Next Order!!

STATEMENTS

Speaker (Hon. Oraro): Yes Hon. James Omollo.

Hon. Omollo (MCA, West Nyakach): Thank you Mr. Speaker, I rise pursuant to the provisions on Orders 42 (2), (c) which mandates me as an Interim Member of the House Business Committee appointed pass one to Orders 154 (7) of the Standing Orders on behalf of County Assembly Majority Leader to present and lay on the Table of The County Assembly a Statement informing The County Assembly of The Business coming before The House in the following week.

Hon. Speaker, this is therefor to bring to the attention of the Members and the County Assembly that for the week commencing Wednesday 12th June, 2024 to Tuesday 18th June, 2024 the Select Committee on House Business in its last meeting approved the following tentative Businesses to appear on Order Papers as follows:

Wednesday 12th June, 2024 at 9.00 a.m.

PETITION

The Hon. Speaker will report on Petition to The County Assembly by Mr. Steven Otieno Opry on behalf of the residence of Kisumu on Matter of Alleged Violation and Infringement of Fundamental Rights and Freedom of the residence of Kisumu County under article 28, 32,39,42 and 60 (A) of The Constitution of Kenya 2010 and inaccessibility of Lake Victoria at Dunga Beach area in Kisumu

SUBSTANTIVE MOTION

The Chairperson of Select Committee on Implementation Hon. Henrietta Bodo will move a motion for the Adoption of the Report on Status of the Implementation of the House Resolutions

on The Report of Labor and Social Welfare Services on petition by retirees of the defunct Ahero and Nyando local authorities on the matter of verification on pending claims of retirees of the defunct local authorities.

Thursday 13th June, 2024 at 2:30 p.m.,

PAPERS TO BE LAID.

The Chairperson Sectorial Committee on Medical Services, Public Health and Sanitation, Hon. Vincent Jagongo, will table Reports on the:

1. Status of Muhoroni County Hospital
2. Status of Lumumba County Hospital
3. Status of Kombewa County Hospital
4. The financial management concerns in the County Healthcare System Case of Audit reports by PIC/PAC Committee
5. Proposal to amend the Kisumu County Health Facilities Improvement Fund, FIF Act 2021, in accordance with the facilities improvement financing, FIF Act 2023.

SUBSTANTIVE BUSINESS FOR THE DAY

Chairperson of the Sectorial Committee on Water, Environment, Natural Resources and Climate Change, Hon Samuel Dede, will move a Motion for adoption of the Committee Report on the status of projects within the County.

Tuesday 18th June, 2024 at 2:30 p.m.,

STATEMENT

The Leader of Majority will issue a Statement pursuant to Orders No. 41 (2) (c) on the business coming before the County Assembly for the week commencing Wednesday 19th June, 2024. and

SUBSTANTIVE BUSINESS FOR THE DAY.

The Chairperson Sectorial Committee on Medical Services, Public Health and Sanitation, Hon. Vincent Jagongo, will move a Motion for Adoption of the Committee Report on the Financial Management concerns in the County Healthcare Systems, Case of Audit Reports by PIC PAC Committee. Thankyou Mr. Speaker. I beg to conclude. Thank you.

The Speaker (Hon. Oraro): It is Statements time.

(Silence)

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

ADJOURNMENT

The Speaker (Hon. Oraro): Honourable Members, you can be upstanding. I want to request that at the end of the session you remain behind, we have some kind of 50 minutes "Kamukunji" before we leave.

Honourable Members, there being no any other business in the Order Paper, the House stands adjourned until tomorrow Wednesday 12th June, 2024 from 9:00 a.m.

(House rose at 03:04 p.m.)

Addendum

Hansard Team

Zablon Otiende - *Senior Hansard Reporter (Acting Editor)*

Edward Odanga - *Hansard Reporter*

Fanuel Okode - *Hansard Reporter*

Patrick Okoyo - *Hansard Reporter*

Jesca Otieno - *Hansard Reporter*

Jacklyne Otieno - *Hansard Reporter*

Valery Achieng' - *Hansard Reporter*

Jacktone Obonyo - *Intern*

Mercy Rapando - *Intern*

Wendy Akinyi - *Intern*