



REPUBLIC OF KENYA

COUNTY ASSEMBLY OF KILIFI

SECOND ASSEMBLY –THIRD SESSION

THE HANSARD

Tuesday, 25th June 2019

*The House met at the County Assembly Chamber,
Malindi Town, at 9:30 a.m.*

[The Speaker (Hon. Kahindi) in the Chair]

PRAYERS

STATEMENT

STALLED CONSTRUCTION OF CHUMBA CHA TSUWI ECD CENTRE (UMOJA) IN GARASHI WARD

The Speaker (Hon. Kahindi): Is hon. Peter Ziro in? Okay. Yes hon. Chiriba.

Hon. Chiriba: Thank you Mr. Speaker, Sir, for giving me this opportunity to give a Response to a Statement sought by hon. Peter Ziro. The Statement was ‘whether the County Executive Committee Member in charge of the Department of Education and ICT is aware that the construction of Chumba Cha Tsuwi ECD Centre (Umoja) in Garashi Ward stalled two years ago?

If yes, what plans does the County Executive Committee Member have to ensure that this project is completed for the benefit of the people of Garashi and Kilifi at large?

Mr. Speaker, Sir, this is the Response; Reference is made to the letter dated 19th April 2019 on the above Statement. I would wish to confirm that the above named project of Garashi Ward is at the walling stage and no operations are on-going. Prior to your Statement, the Department had taken steps to inform the Department of Works the need to process warning and

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termination of contracts of all stalled projects. The last communication was done on 28th February 2019 as in the attachment.

The Department of Works has so far issued a warning letter to the contractor as a first step. It is expected as a matter of procedure that a second warning and a default notice respectively will be served to the contractor in the event that he does not resume work on site. The Department will make a close follow up to ensure that the project is completed in time. Thank you Mr. Speaker, Sir.

The Speaker (hon. Kahindi): Hon. Peter Ziro, you wish to make any further clarification or you are satisfied with the Response?

Hon. Ziro: Thank you Mr. Speaker for this chance. Maybe to seek for some more clarification on the information that has just been read here. According to the reply of this Statement, I feel there is something wrong. If you look at the warning letter that was written by the Department of Works dated 15th April 2019, and I want you to allow me to read the Statement as it appears. The warning letter states;

‘It has been noted by the project manager that there has been no operations on site concerning the above mentioned project since 18th December 2018. Work done to date is sub-structure, super-structure walling to ring beam level only. This constitutes a stoppage of works for more than 30 days which is a fundamental breach of contract as stipulated under Clause 33(1) of the condition of contract. In view of the above, you are hereby instructed to resume operations on site immediately. If there will be no operation on site within the next seven days and I repeat, within the next seven days from the date of this letter, you will be served with a default notice as per the conditions of contract. Thank you.’ Signed by, the concerned person in the Department of Works.

Mr. Speaker, Sir, this warning letter stipulates very well that in seven days after the warning is issued if the contractor does not go on site then a second warning letter is issued and that will be followed by a letter of default as per the conditions of contract. If you look at the reply of the CEC, the warning letter was issued and in seven days time there was nothing going on up to date. No second warning letter has been issued until now. No default letter has been issued and things are just going on normally yet here the CEC is very happy giving this particular Response to this House.

Mr. Speaker, Sir, I do not agree with this. For more information since I was sworn in and even before my swearing in here as an MCA for Garashi Ward, the building had already stalled. It is now almost two years down the line and nothing is going on. I think we need more clarity concerning this particular issue and what is going on in the Department of Works. Thank you Mr. Speaker, Sir.

Hon. Kiraga: Thank you so much Mr. Speaker Sir. I would wish to concur with the Mover of this Statement that this Response is unsatisfactory. I even do not understand whether this is a warning letter...I do not know but to me, this is not a warning letter; it a letter to request the contractor to resume operations.

Mr. Speaker, Sir, these are some of the sub-standard responses we are receiving in this Assembly. If you look at the Statement which was moved by hon. Peter Ziro from Garashi Ward concerning the same, these are projects which were installed two years back and when we talk of two years this means almost two financial years.

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If you read this letter which they call a warning letter, it was recently written and I doubt if these concerned officers have really been on the ground at least to see the real cases on the ground.

Mr. Speaker Sir, it is good that hon. Peter Ziro is bringing this issue to this County Assembly but it is one of very many issues on the ground. When you go and inquire from the officers on the stalled projects, the response that you will be given will be the same exact answer when you call after three months.

Much blame has been given to the Works and the Procurement Department. I really appreciate what happened yesterday calling some of the Officers to the Committee on General Oversight. I therefore request your Office to call some of these officers, for example the Works and the Procurement officers to the Committee on General Oversight. We are almost at the expiry of the current financial year and it is pathetic that projects worth Kshs 2.6 billion have either not started or at various stages. The monies allocated to the project will go to the un-spent County Revenue Fund. The National Government has got very big international debts and we fear that the monies will not find their way to this County. These are the problems cause...

The Speaker (Hon. Kahindi): Yes what is your Point of Order hon. Member?

Hon. Mramba: The hon. Member for Gongoni is raising issues that need clarification. He is saying that the County Government has international debts...

The Speaker (Hon. Kahindi): He said the Country.

Hon. Mramba: Okay thank you.

Hon. Kiraga: Unless this County Assembly really tries to push the Executive to implement the budget in totality, we might have these problems recurring. I am saying this because there is a whopping sum of around Kshs 2.6 billion in the development expenditure and Kshs 2 billion in the recurrent expenditure which cannot be utilized before the expiry of this financial year. This is a very big problem. They have to explain why this is happening. The core mandate of this County Assembly is to do oversight and make sure the budget is implemented in totality. If year in year out we are experiencing such cases, I do not think we are doing well to the people of Kilifi. I therefore request your Office to call some of these officers. Now that we are going to start another financial year, we should not have such cases being repeated in the coming financial year 2019/2020.

Hon. Changawa: Thank you Mr. Speaker, Sir for this time to contribute on the same Statement. If we can go back to the date where the Statement was written, on 25th March and the Response from the CEC Member is dated 16th April while the warning letter is dated 15th April and today being 25th June, the Response delayed somewhere.

The Speaker (Hon. Kahindi): I think the warning letter was written after the Statement was done because the warning letter was done on the 15th of April then the Response was done on the 16th so it means were it not for your Statement, nothing would have been done. This is a big joke, and these are the professors that we have entrusted with the highest authority. He is actually the one who commissioned the warning letter to be done because in the absence of the warning letter, there was nothing. The question is how many more projects are of similar circumstances? I do not wish us to call these people on one matter because even from the sequence of correspondences, it means they had not done anything whatsoever and this warning letter was cooked probably not even served to the contractor.

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Another observation is that the letter is not even...I think the CEC Members are taking this Assembly for granted. I want to concur with the submission made so that we do not waste more time on this. This is a matter that requires further interrogation. Hon. Ziro, please have a session with the Clerk's Office, they will advise you on how to forward this matter to the Committee on General Oversight so that we can have an in-depth scrutiny on this matter. Yes, hon. Mramba.

Hon. Mramba: This problem cuts across Departments; we have several projects in the wards. I am proposing that we be given time to compile the list so that when they come, they answer a number of questions.

The Speaker (Hon. Kahindi): We can do this, because the Questions do not necessary have to come to the Floor of the House, anybody who has an issue with this Department, let them between today and tomorrow submit them to the Office of the Clerk then the Clerk will bring the Questions to my office for approval so that when the CEC Member is coming, he is coming with a bucket-list of answers. This is not the way you respond to an Assembly. There is a better way of cheating not cheating like you never went to school.

You do a warning letter on 15th which is not even stamped. So we are not sure if it is original or fake. We are not even sure if the contractor received it or not, then on the 16th you do a Response and life continues. Hon. Members, I am sure you have similar Statements like this you would have wished to put across. I am directing that we have today and tomorrow within which you can forward them to the Clerk because we need to act urgently so within the next seven days these people are served so that they can prepare the answers to all the questions that you have. We have been informed that some of the projects have never commenced and we are closing the financial year. The reason as to why we now need to resort to the Committee on General Oversight is because not all Members here are Members of the Education Committee. So, if the questions are brought before the Committee on General Oversight it is much better.

What they also need to know is that the recommendations of this House in the past have ended up in court and this time it will also end up in court because I will not preside over a Committee that will not have results. Like I said yesterday, we are still going to have a session to visit Malindi Hospital. I know the Executive thought the matter was over yesterday but it just started and whenever you have brought an issue to the Committee on General Oversight, please do not receive phone calls from anybody else because I will not Chair a Committee that does not produce results.

We have done it before; we were taken to court and we won. So, this time whenever we stand with the resolution, the resolution will stand. If you are incompetent, you are incompetent. There is no other word about it. If the Committee on General Oversight has the powers to even recommend for an impeachment of a CEC Member and we did it last time with Salma Muhdin then she went to court and she lost. So, that is the position we are taking. Please do not forward your issue to the Committee on General Oversight and then while we are at it you come to me and tell me Speaker, I wish to withdraw this; it has happened before here.

I want to send that as a warning to Members that this Committee is not a Sectoral Committee. The Committee on General Oversight is not invoked unless it is dealing with something which is of greater importance. I do not want a situation where you brought this but then you say no ...because when we start proceeding we are not looking back. This cannot happen, hon. Members; this is an abuse of the Assembly. The same way yesterday it came out

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very clearly two doctors are telling us a story about Coast General Hospital in Mombasa and we have a CEC Member who says a patient died in our care and it is sad we regret.

This job is not about Degrees and Masters and PHDs. It is about giving services to the people and if you are not up to the task, you are not up to the task; simple. So, kindly we have agreed that we submit our issues to the Clerk but this Committee has no reverse gear. Let us all agree to that. When we started with the issue of Salma Muhdin, Members were called to be told do this or that but we stood one ground until we went to the process where we were taken to court.

Let us be taken to court but when we start there is no reverse gear, because what we are simply seeking is; are the people of Kilifi getting services? So, on top of the list will be your issue hon. Peter Ziro; it does not require rocket science to want to detect that the CEC Member is trying to fool us. This is very clear that had you not submitted this Statement, nothing would have been done. It is not possible that you do a warning letter on the 15th and on the 16th you do a Response. Clearly, it tells you that something is wrong. These and many others...please, let us have them; we will send them and then we shall call the entire Department. Let us find out where the problem is. Hon. Chiriba, I do not think you have anything to say. If you do, please say it now or if you are in concurrence with your brother...you know you are only a messenger so...

Hon. Chiriba: Thank you, Mr. Speaker. In fact, I had made a request because I was in great support of the Statement made by the hon. Member and more so the submission from hon. Kiraga from Gongoni that the Response is a sub-standard one. I happen to also be a victim of the same, so hopefully the Clerk will be receiving a project from Jilore Ward. We have to go ahead and do the summons for both the Public Works and more so the CEC Member and I hope it should include the Chief Officer because in most of the meetings we just see the CEC Member purporting to be a jack of all trades and would respond to everything including concerns that might involve the Chief Officer. So, every respective party should be brought on board. Thank you, Mr. Speaker.

The Speaker (Hon. Kahindi): Thank you very much. So that is agreed. In the next meeting of the Committee on General Oversight as we are still looking at the issue of Malindi District Hospital...you know one of the Members who was here from the Executive confided in one of our Members yesterday but he said he should not be named for fear of being victimized that indeed there was no oxygen. Okay, they said there was no oxygen in the vehicles and what I did yesterday was just to play with their psychology; I said we were going there but then you realized they became restless; all of them trying to make phone calls here and there.

So, if there was no oxygen, there is now and probably it saved people's lives after I made that statement but I can assure you there will be none next week because the system will go back to normal. So, I want us to give them two weeks only; they will have forgotten everything because to them this matter is over; it is not over. When the CEC Member confirms that she has staff some of whom are crazy then where have you seen on earth a crazy doctor treating a crazy patient? And the manner in which they respond to our Statements, I do not know whether they think this is a House of villagers or people who have not gone to school.

You see it has taken how many...one minute for a Member to realize that even the sequence of the letters is also fake. I am not taking this lightly and when we start moving, we are not looking back. We will all convene here at a date to be mentioned one afternoon and we shall walk to the District Hospital with full glare of cameras and we shall inspect the entire hospital.

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On that material day, not every one of us will know we are going there. In fact, I will not mention the date. We will convene for a sitting and then disband the sitting and do the General Oversight because I also know that if we say we are going on that day they will be told. There is no cosmetic here; we have to deal with the real issues. But I want us to buy some time because now they are on alert mode. As soon as they engage the sleeping mode, then we engage them.

On this one hon. Members, you will be defined by the kind of work you do. Hon. Mramba was here, hon. Mwayaa was here, hon. Karisa was here then, hon. Chiriba, hon. Kiraga...they will tell you what happened last time we had a General Oversight and that is how it is supposed to be done. If the Committee on General Oversight fails to deliver, then we better all pack and go home because that is the only ultimate Committee that can be able to deliver. It is very easy to deal with nine Members but you cannot deal with 55 Members; not when I am the person chairing, no! So, do not come to me and say we have agreed with the Executive we want to let this go...we are not letting anything go.

If you do not want anything to come to the General Oversight then do not bring it; go deal with the people who elected you. But, for as long as we have come here, remember...and one thing that I need to let you know is that a Report that has been adopted by the Committee on General Oversight is as good as a Report which has been adopted by the Assembly; because the Membership is the same. Are we together? When we adopted to impeach Salma Muhdin, I think it was in Sai Roc Mombasa, that decision was one. So, you cannot come here and say I object. That is how different the Committee is and right now I think we need to shift from Committees to the General Oversight Committee because that is where we will get solutions to the many problems we have.

Apparently, what you did not realize is that some of the people who were here were ready to speak the truth but of course they could not. But then they jumped ship to other Members and tell Members that to be honest, those ambulances have no oxygen. The baby died because they could not transport the baby; that is the truth of the matter and we are going to establish that. The question is, how many lives are we going to lose? So, that is Government for you. Welcome to the real world where you see things happening and if you have never heard of cover-up, now you will see it. But we are here to un-cover it; that is our job. So it is agreed by close of business tomorrow, let us have all the issues that you have on these Departments and have them documented, because they shall be many. We shall give them enough time to prepare and come with answers here. Anybody who fails to deliver to the Committee on General Oversight takes a united stand that we move forward.

So, for those Members who have issues in their wards; the Chairperson himself has issues. Hon. Mwayaa, I think you have too many because you once told me that you do not even see why we should have a budget this time when the budget for last year has not been implemented. We are having another session soon thereafter. You have the afternoon to compile your projects and all that. All you need to do is just write the name of the project and where it is; do not do a Statement because we need to say, Jilore Ward project X and Y for this financial year not completed, we need explanations. The Clerk will re-structure that into one big Question that the following projects... then they will be listed so that when the CEC Member comes, he will come with answers to all those questions. Do not go ahead and formulate Statements like what *mheshimiwa* did because we are now doing a Question under Standing Order No. 42.

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ADJOURNMENT

In the absence of any other Business in the Order Paper, I move to adjourn the sitting until this afternoon. Thank you.

The House rose at 3:15 p.m.

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