



REPUBLIC OF KENYA
COUNTY ASSEMBLY OF KILIFI
SECOND ASSEMBLY –FOURTH SESSION

THE HANSARD

Wednesday, 15th July 2020

*The House met at the County Assembly Chamber,
Malindi Town, at 2:30 p.m.*

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

PRAYERS

STATEMENTS

STATUS OF CONSTRUCTION OF THE KILIFI STADIUM

Hon. (Ms.) Sidi: Thank you Mr. Speaker. I rise to read a Statement to the Department of Gender, Youth, Culture and Social Services, through the Chairperson; County Assembly Committee on Gender, Youth, Culture and Social Services:-

Whether the County Executive Committee Member (CECM) in Charge of Gender, Youth, Culture and Social Services is aware that the County Assembly of Kilifi allocated Kshs100 million in the County budget for the financial year 2019/2020 for the construction and designing of Kilifi stadium?

If yes, what is the current status of the stadium? How has the money been utilized so far?

LACK OF DRUG-STORAGE FACILITY AT MALINDI HOSPITAL

Hon. (Ms.) Sidi: Again Mr. Speaker, I read a Statement to the Department of Health through the Chairperson of Health Committee on Storage for Drugs:-

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Whether the CECM in charge of Health is aware that Malindi level four Hospital lacks a drug-storage facility?

Whether the CEC Member is aware that the hospital is currently using an incomplete room at the hospital meant to be a toilet to store their drugs? Whether the CECM is aware that, the store is too small and congested and has since forced the hospital to borrow storage space at the old Malindi Law Court to store the rest of the drugs?

If yes, what actions has he taken to ensure that the business premises within the county have incorporated the sanitary facilities in their rented business entities?

That is the end of the Statement, but if you allow Mr. Speaker, there are Statements that I raised that have not been responded to; I did a Statement in May to the Committee on Gender on Gender violence and Extremism and I did another Statement to the County Secretary on the Policy on Gender Equality which have not been responded to.

The Speaker (Hon. Kahindi): The Office of the Clerk should follow up on that. Response to a Statement sought by hon. Thaura, is he present? Not present, hon. Stanley had a Statement.

KAMALE HOLDING GROUNDS TO BE REVERTED TO COUNTY GOVERNMENT FOR RESETTLEMENT

Hon. Kenga: Thank you Mr. Speaker. I have a Statement directed to the CECM in charge of Lands, Energy, Housing, Physical Planning and Urban Development, through the Chairperson Committee on Lands, Energy, Housing Physical Planning and Urban Development:-

Whether the CECM Lands, Energy, Housing, Physical Planning and Urban Development is aware;

1. That, Kamale Holding ground exists in Adu Ward.
2. That, Kamale Holding ground is home to several public institutions namely; Mutoroni Public School, Mutoroni Dispensary, Turu Primary School, Timboni Primary School, several religious institutions and several sports grounds.
3. That, very big population of people live on Kamale Holding grounds.
4. That, members of the community had requested the County Government through the relevant National government Ministry to initiate the process of negotiations to have Kamale Holding ground revert back to the County Government for resettlement for people living within.

If yes, how far has the process gone so as to have the land reverted back to the County Government, kindly attach relevant documents. Thank you.

MOTION

ADOPTION ON THE CONSIDERATION OF REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE WARD SCHOLARSHIP FUND FOR THE YEARS 2014, 2015, 2016 AND 2017

Hon. Baya: Thank you Mr. Speaker. I beg to move the Motion on Adoption of the Report of the County Public and Investments Committee on the annual reports and the accounts of the financial statements of the Ward Scholarship Fund for the financial years ended 30th June 2014, 2015, 2016 and 2017.

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Before I call upon hon. (Ms.) Sidi to Second me, allow me to make my submissions by taking Members through the mandate of this Committee and the guiding principles and the proceedings.

The County Public Investments and Accounts Committee is a Select Committee established under the Standing Order No. 155 as follows:-

- “155. (1) There shall be a select committee to be designated the County Public Investment and Accounts Committee.
- (2) The County Public Investments and Accounts Committee shall be responsible for-
- (a) the examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
 - (b) the examination of the reports, accounts and workings of the county public investments;
 - (c) the examination, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices:”

The primary mandate of the County Public Investments and Accounts Committee is therefore to oversight the expenditure of public funds by Departments and County entities to ensure value for money and adhere to government financial regulations and procedures.

The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor General.

Mr. Speaker Sir, in the execution of its mandate afore-stated, the County Public Investments and Accounts Committee is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include the following Constitutional Principles on Public Finance.

Mr. Speaker, Article 201 of the Constitution of Kenya, 2010 enacts fundamental principles that shall guide all aspects of public finance in the Republic” The principles are, inter alia that:

- “201 (a) there shall be openness and accountability, including public participation in financial, matters;
- (d) public money shall be used in a prudent and responsible way; and
 - (e) financial management shall be responsible, and fiscal reporting shall be clear.”

The Committee places a premium on these principles, among others, and has been guided by them in the entire process that has culminated in this report.

Direct Personal Liability; Article 226 (5) of the Constitution is emphatic that “if the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of office or not’.

(Hon. Kiraga stood on a Point of Order)

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Hon. Kiraga: Mr. Speaker, with due respect, can we have the Chairperson take us through the Report itself and convince this House.

Hon. Baya: Thank you Mr. Speaker, just to summarize on that, the Committee held fifteen (15) sittings in which it closely examined the Report on the Financial Statements of the Kilifi County Ward Scholarship Fund for the year ended 30th June 2014, 2015, 2016 and 2017.

In the exercises, the Committee was guided by the stated principles as well as the rules, procedures of the County Assembly derived from the Constitution of the Republic of Kenya, Acts of Parliament, County Assembly Standing Orders, conventions, usages, practices and rulings plus the directives of the Chairperson.

The minutes of the Committee are hereto annexed, and copies of the HANSARD Report may be obtained at the County Assembly of Kilifi Hansard Department. In its inquiry into the whether or not the affairs of the Public entities were managed in accordance with sound management principles and prudent public sector practices, the Committee heard and received both oral and written evidence from the Accounting Officer and the Board of Kilifi County Ward Scholarship Fund. The recommendations on the issues raised by the Auditor-General will be found under appropriate paragraphs of the Report.

The records of evidence adduced, documents and notes received by the Committee form the basis of the Committee's observation and recommendations as outlined in the Report. These can be obtained in the HANSARD Reports of the Committee, available at the Office of the Clerk.

These observations and recommendations, if considered and implemented, will enhance accountability, effectiveness, transparency, efficiency and prudent management in public entities within Kilifi County.

Mr. Speaker Sir, allow me to take members to the Auditor General opinion, the Auditor General responsibility was to express an opinion on the financial statements in accordance with Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. The Audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs).

Those standards require compliance with ethical requirements and the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement. The matters mentioned in the audit report had been identified through tests considered necessary for the purpose of audit and it is possible that there are other matters and or weakness that were not identified.

Mr. Speaker Sir, the general observations and recommendations, under the independence of the Board, it is the Committee considered position that the Ward Scholarship Fund Board had been subjective to influence and did not effectively oversee the workings of the Ward Committee owing to the fact that there had been cases of;

1. The lists presented to them not being cross-checked to ensure beneficiaries were bright and needy.
2. There was no limit to the amount of money given to the beneficiaries.
3. The students benefitting from Scholarship in more than one ward.

The Committee observed that lack of effective oversight was largely attributable to the mismanagement and even misuse of funds meant to help the bright and needy students in the County.

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The Committee therefore recommends that the Board should exercise its independence and effective oversight, cross-checking these lists from ward committees.

Late submissions of audit queries; It is the Committee's considered position that close to 60 percent of audit queries in this report could have been resolved by the way of prompt actions by Accounting Officers upon being invited by the Committee.

These would most probably have never been audit queries if the Accounting Officers had sufficiently and promptly responded to the Auditor General's management letters and provided the necessary supporting documents.

In most cases, accounting officers act on queries just when about to appear before the Public Investments and Accounts Committee or when ordered by the Committee during sittings. The most common issue being failure to provide documents at the time of audit.

In this regard, therefore the Committee recommends that the accounting officer should take the audit process seriously and ensure prompt action on the Auditor General's management letters to prevent unnecessarily numerous audit queries. The Committee will hold them personally responsible with attendant sanctions.

The Committee further recommends that the accounting officer should institute measures to ensure that the respective officers always act on time when dealing with the Auditor General to avoid the otherwise unnecessary audit queries.

Mr. Speaker Sir, the Committee also experienced some challenges. The greatest constraint faced by the Committee in the preparation of this Report was the incredibly heavy workload occasioned by a backlog of accounts inherited from the First Assembly going back three years.

This backlog has delayed the approval of up-to-date accounts, which is in violation of Article 229 (4), (8) of the Constitution of Kenya. To correct this aberration, the Committee took the unprecedented measure of considering audited accounts for four consecutive years simultaneously (2013/2014, 2014/2015, and 2015/2016, 2016/2017).

To correct this, the Committee took the unprecedented measure of considering audited accounts for four consecutive years simultaneously 2014, 2015, 2016 and 2017. The Committee also noted with grave concern the serious financial constraints in the allocation to the county public investment and allocation committee which has serious implication for the entire audit circle as set out in article 229 of the Constitution. Unless this challenge is urgently addressed more so in view of the increased audit obligation occasioned by the independence of devolution, public funds will remain at great risk of misuse, misapplication and loss.

Further, the Committee was quite frustrated by the submission of poorly prepared, casually and unconvincing responses, late submission of responses and failure to furnish the office of the Auditor General with advance copies of responses. The Committee holds the view that this is apprehensible conduct and that comprises the audit circle and must strongly be discouraged by all means.

These challenges notwithstanding, the public investments and accounts Committee is not nonetheless proud to have discharged its mandate with honors and value as expected of it by the Constitution, Standing Orders and customs of this honourable House.

Before I rest my counsel, I just want to take this opportunity to congratulate the Public Investments and Accounts Committee on participating and handling this backlog and I also want to urge this House...

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(Hon. Kiraga stood on a Point of Order)

Hon. Kiraga: Mr. Speaker, the Chairperson has persistently been talking of audit queries in his Report and he is not giving us some examples of the audit queries he is referring to. Can we get some of those audit queries you are referring to in your Report?

Hon. Baya: Thank you Mr. Speaker. This is the same Member who was complaining that I was reading a lot of literature in this House and that is why I had to summarize the Report. I believe every Member has a copy of this Audit Report which I was referring to, but if you allow me to take this Member through the details of this audit Report including the audit queries, observations and the recommendation of the Committee, the one I was reading was a summary...

(Hon. Pascal stood on a Point of Information)

Hon. Pascal: Thank you hon. Speaker. I stand on a point of information to answer what the Chairperson Budget has asked. One of the audit queries that have been pointed out is about some students benefitting twice. Thank you.

Hon. Kenga: Shukran mheshimiwa Spika. Ningeomba kumjuza Mwenyekiti kwa kuongezea yale yaliozungumzwa na Mheshimiwa wa Mwanamwinga kwamba kuna mengi ambayo yamejitokeza lakini pia kwa ufahamu ni kwamba Ripoti iliweza kupeanwa na jukumu letu kama viongozi tuweze kupitia. Nafikiri Mwenyekiti kwa sasa ana jukumu la kutushawishi aidha tuunge mkono ama tuikate lakini nafikiri ameweza kutekeleza wajibu wake.

(Hon. (Ms.) Sidi seconded)

(Question proposed)

Hon. (Ms.) Sidi: Thank you Mr. Speaker. I rise to second the Motion that is on the Floor but before I give my submission, I would like to appreciate the Chairperson for PAC for showing good leadership at the Committee level and also to appreciate the Office of the Clerk for providing the necessary resources for the Committee to do its work and also not forgetting the members of the PAC Committee for their sacrifices. If you look at the Report, you will see that the Committee of PAC sat to go through four financial years of the Ward Scholarship Fund; this is not easy work for a Committee and I think PAC is one of the Committees that have proven to be hard working in this Assembly.

To my submission, the basis of this fund is to help bright but needy students. If you especially check on the financial year 2013/2014 the Committee observed that most of the beneficiaries that received these monies were not necessarily needy. You will find a case where one beneficiary was a child of a hon. Member and was studying outside the country, benefited not only once but more than three times to a tune of almost Kshs900, 000 to study piloting.

For the FY 2013/2014, the core functions of the Ward Scholarship Funds were not observed because this kid was not bright and at the same time he was not needy. That was one of the observations, and at Committee level, we recommended that the Board should put measures to ensure that it's only bright but needy students that need to benefit from that fund.

We also observed in the FY 2013/2014 we also had multiple cases benefiting from more than one ward this is because the methods applied in 2014 had loopholes so we recommend at

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the Committee level, the board should institute measures to ensure that a kid does not benefit from two wards with different sums of money.

We also observed that even after the first amendments of the Ward Scholarship Act in the year 2015 still there were a lot...

(Hon. (Ms.) Sidi spoke off record)

The same issues that were observed after inception of devolution in 2014 they have progressed even to the financial year of 2015/2016, we see multiple students benefiting twice, we also see students that are not needy benefiting and we also see that some of the leaders who are influential in the ward level being able to influence the process of allocating funds to students.

The second amendment of the Act removed the ward representative from being a committee member at the ward committee level for the fund. In the FY2016/2017 I would gladly like to report that some of these mistakes that we have seen from 2013/2016 are not ...we have seen a big improvement in 2017. We have seen minimal cases of students benefiting twice, we have seen the cases of only bright but needy students benefiting.

(Hon. Chiriba stood on a Point of Order)

Hon. Chiriba: I have a concern; the Member on the Floor is telling the House that some leaders were influencing the ward committees in allocating bursaries. Who are these leaders that you are referring to hon. Member?

Hon. (Ms.) Sidi: Thank you Mr. Speaker. I will not refer to a specific leader because in the FY 2015/2016 the Department of Education came up with a program of teaching computer skills to the youth at the ground level. In the tender it was supposed to be 50 students per ward to be taught these skills but then the essence of the ward scholarship is for people to first apply for them to benefit. When we went for site visit we saw a lot of kids having gone for this program way above...

The Speaker (Hon. Kahindi): Order hon. Saumu; in other words, is your statement that leaders were influencing the selection process part of the audit report?

Hon. (Ms.) Sidi: Yes, Mr. Speaker and that is why we are saying the financial year 2016/2017 there has been a lot of improvement even from how the queries from the auditors came in that we see only needy but bright students that are benefitting. We see few cases of kids benefiting from more than one ward...

(Hon. Kenga stood on a Point of Order)

Hon. Kenga: Mr. Speaker, I do not want to interrupt the submission she is making, I just wish she goes on record that apart from being on seconder of this very important Motion she is also the Vice-Chairperson of the Education Committee. So she is speaking with authority given one on the issue of audit and the fact that she is Vice-Chairperson of the Education Committee in the County Assembly of Kilifi and the matter is related to education.

Hon. (Ms.) Sidi: I think Mr. Speaker, I am at liberty to either accept or deny that request, so I will proceed...

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(Hon. Pascal stood on a Point of Information)

Hon. Pascal: I also want to stand on a Point of Information regarding what the Member on the Floor has just said. I want to point out that the years that the Report has indicated that there was fairness in the distribution of these bursaries was during the times that the hon. MCAs were still members of these Committees before the law was changed as the Committee started coming up. So, I wanted to point out that clearly that MCAs are good managers of resources despite the fact that they are set aside in such very noble functions I think there is need for their inclusion in such areas.

Hon. (Ms.) Sidi: Thank you Mr. Speaker. I also appreciate the Member for Mwanawinga for also pointing out that issue, it is true especially for the FY 2013/2014/2015 the hon. Members of this Assembly back then were the managers of this ward scholarship committee at the grass root level. In fact, some of the monies that were being paid to the ward committees were being channeled from the Executive to the County Assembly for the members to access and go and pay their members at the grass root level.

That notwithstanding, we are saying at a Committee level once we amend this Report we will see the Ward Scholarship Fund especially in terms of allocating funds to the bright but needy students that will be automated. So I am urging my fellow hon. Members to support this Report so we can see automation of this whole process in benefiting from the Ward Scholarship Funds, so we can minimize the issues of a student getting money twice, a student who is not bright accessing the money and a student being allocated a lot of money and others receiving few monies.

At a Committee level, we are hoping that once we adopt this Report we want to see the regulations that... the CEC is required to develop guidelines in managing the Act. With those few remarks, I wish to call upon my fellow hon. Members to support this Motion. Thank you.

The Speaker (Hon. Kahindi): Hon. Members any other contribution?

(Question put and agreed on)

ADJOURNMENT

The Speaker (Hon. Kahindi): In the absence of no other business, I move to adjourn this House.

The House rose at 2:45 p.m.