

REPUBLIC OF KENYA

NYANDARUA COUNTY ASSEMBLY

1ST ASSEMBLY- 5TH SESSION

OFFICIAL REPORT

Wednesday, 31st May, 2017

The Assembly met at the Assembly Chamber at 9.00 a.m.

[The Speaker (Hon. Ndegwa Wahome) in the Chair]

PRAYER

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

(The clerk-at-the-table confirms that there is no quorum)

Speaker: There being no quorum, I invoke the provisions of Article 34(1) of our Standing Orders and direct that the quorum bell be rung for an initial ten minutes, or until such a time within those ten minutes that quorum will have been achieved.

*(Quorum bell is rung for 10 minutes but quorum is not achieved
as confirmed by the clerk-at-the-table)*

Speaker: Hon. Members, quorum having not been recognized at the expiry of the initial ten minutes, I direct that, pursuant to Standing Order No. 34 (2), the quorum bell be rung for a further five minutes, or until such time within the five minutes that quorum will have been recognized.

*(Quorum bell is rung for two minutes and quorum is achieved
as confirmed by the clerk-at-the-table)*

Speaker: Very well, quorum having been achieved, we can now proceed with the business for the sitting.
First Order.

MOTIONS

Speaker: Yes, Chairperson of the joint committee on Health Services & Roads, Public Works and Transport, Hon. Peter Njoroge Kairu.

Hon. Peter Kairu: Thank you Mr Speaker, I beg to move the following motion:

THAT this House does adopt the Report of the Joint Committee on Health Services & Roads, Public Works and Transport on the Status of Ndaragwa and Captain Eco- Toilets and the recommendations therein as resolutions of this Hon. House.

Mr Speaker the Member of County Assembly for Njabini-Kiburu Ward, Hon. James Kiiru Gachomba, vide a letter dated 19th June, 2015 requested the Committee on Roads, Public Works and Transport to inspect and assess the construction of Njabini Eco- toilet. Upon deliberations on Monday 29th June, 2015 the Committee conducted a site visit to the said Eco-toilet and witnessed the substandard work done by the contractor.

Further, the Committee on Roads, Public Works and Transport resolved to jointly inspect all the Eco-toilets within the County with the Committee on Health Services since the matter cross-cuts the two sectors. In addition, this was in response to a query raised by the Auditor General on irregular procurement of works.

(The Speaker (Hon. Ndegwa Wahome) leaves the Chair)

(The Deputy Speaker (Hon. Wambugu King'ori) assumes the Chair)

The Joint Committee held several meetings and on 8th March, 2016 visited Njabini and Miharati Eco- toilets and resolved to request for a report on evaluation and assessment of the Eco-toilets from an independent quantity surveyor pursuant to Standing Order 183. On 6th July, 2016 the Joint Committee tabled a report on the abovementioned toilets and on 28th July, 2016 the House unanimously adopted the report with its recommendations, one of which was that the Joint Committee does visit the remaining Captain and Ndaragwa Eco-toilets to assess their status and compile a report on the same. According to Section 191 (5) of the Standing Orders, Sectorial Committees are mandated to:

Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
Study the programme and policy objectives of departments and the effectiveness of the implementation;
Study, assess and analyse the relative success of the departments as measured by the results obtained as compared with their stated objectives; and
Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the Assembly.

(The lights go off but Hon. Peter Kairu continues to make his submissions off-record)

(Hon. Sylvester Kagiri rises on a point of order)

(The lights come on)

Speaker: Member for Githioro, I believe your point of order has been settled?

Hon. Sylvester Kagiri: Yes, Mr Speaker.

Speaker: Proceed Member for Githabai.

Hon. Peter Kairu: Thank you Mr Speaker. As I proceed, the membership of the joint committee and the secretariat is highlighted on page four. The committee's terms of references, the methodology, sites visits are discussed in the subsequent pages. Mr. Speaker, Sir, anyone who has ever been to a poorly maintained toilet will value a good toilet that is clean and dry, well ventilated, safe and user-friendly, easy to maintain and accessible. Mr. Speaker, Sir, public toilets are facilities where one is obliged to ease themselves in unfamiliar surroundings among the strangers of the same sex. The usual demands placed on a high traffic and heavily used facility requires extra thoughts for each process. Toilets for public use need to be located in safe environments.

(Hon. James Gachomba rises on a point of order)

Speaker: What is it Member for Njabini Kiburu?

Hon. James Gachomba: Is it in order for the Member for Leshau Pondo to come into this Hon. House inappropriately dressed?

Speaker: Member for Leshau Pondo, Hon. Josphat Kamau, you are out of order. Please leave the House and only come back when you are appropriately dressed.

(Hon. Josphat Kamau bows to the chair and exits the House)

Speaker: Proceed Member for Githabai.

Hon. Peter Kairu: Thank you Mr Speaker. Toilets need to be facilities that people feel confident to use, are easy to maintain, and are resource efficient. To achieve this, public toilets need to be well located, well designed and effectively managed. Design and material choices need to ensure that public toilets structures are long lasting. Besides, toilets should be designed and constructed in accordance with environmental sustainability, equity (access and usability) and efficiency (cost over time) principles. It is recommended that key stakeholders are consulted to determine the requirements for toilet facilities and what issues should be considered when constructing them. The main stakeholders of a toilet facility are its users or its intended users. Before implementing a one-fits-all approach it is vital to talk to the people who want to use the facility and at the end to pay for this use. Besides, it might be important to talk to operators of existing public facilities to get an overview about the main problems they encounter when it comes to operation and customer contact and/or complaints. I would urge the Members to read the entire chapter one during their own free time and allow me to go straight to chapter two.

Mr Speaker, Sir, during the FY 2014/2015 the Nyandarua County Government Department of Health Services set aside 20 million shillings for the construction of Eco-toilets in the County; this was under the vote head No. 3110299. The department resolved to construct 5 Eco-toilets at a cost of 4 million shillings each. The proposed construction was as follows;

1. Kipipiri Sub- County (Miharati town)
2. Kinangop Sub- County (Njabini town)
3. Ol'kalou Sub County (Captain town)
4. OlJoro-orok Sub-County (Kasuku town) and;
5. Ndaragwa Sub- County (Ndaragwa town)

The report of the Auditor General on the Financial Operations of the County Government of Nyandarua for FY 2014/2015 noted some irregularities during procurement of works in the County; the following anomalies were evident;

The contractors invited to make quotations were not in the list of prequalified suppliers; For Ndaragwa toilet, contract agreement, tender evaluation and award minutes were not submitted for audit;

The Kasuku project was abandoned after it was found to be done in a road reserve. A total of Kshs. 695,241.36 had already been paid to contractors for digging of trenches and delivery of some materials on the site; and

There was no environmental impact assessment report that was produced for audit verification to prove that these projects met the environmental requirements before implementation.

On 9th September, 2015, the Health Services Committee summoned the Director of Supply Chain Management to give information with regard to the Eco-toilets. He did provide the following documents;

Minutes of the tender committee for the award of the construction of the toilets;
List of companies approved by the tender committee –Ndaragwa, Njabini, Kasuku, Captain and Ndaragwa; and
Notifications of awards

On the outcry about the inflated prices, he explained that a private quantity surveyor developed the BQs and later failed to own them and also did not follow up on the construction to ensure that they were properly implemented. Minutes of the meeting to which the said Director was invited before the Committee are annexed herein.

The Joint Committee on Roads, Public Works and Transport and Health Services visited Ndaragwa and Captain Eco-toilets on 25th August, 2016 to assess their status. Mr. Speaker, Sir, the Joint Committee came up with the following recommendations;

- a. That the County Government does employ or hire private contractor to draft standard Bills of Quantities.
- b. That the BQs be prepared before the budget allocations so as to inform the Budget.
- c. That before they implement any project the County Government Departments do issue the BQs to the relevant Sectorial Committees for scrutiny.
- d. That as the Executive implements the various projects on the ground, the relevant Sectorial Committees do make impromptu visits to oversee the progress.
- e. That the contractors be given certificates of evaluation at every stage of construction so as to comply with the National Construction Authority Standards (NCA).
- f. That the development projects be strategically located to enhance their purpose(s) to the people.
- g. That youth groups manning Ndaragwa Eco-toilet should be rotated to ensure that many of them benefit from the project.
- h. That feasibility study be done on the site of projects to ensure that similar projects are not implemented in the same area.

- i. That the retention fee to the contractor be withheld till such a time when all the areas with defects are rectified.
- j. That the public be invited to the handing over of the projects from the contractor to the County Government to affirm their satisfaction on the same.

Mr Speaker, the so called Eco toilets in Nyandarua are a shame yet so much money has been poured into constructing them. If Gakuyo used three million shillings to build a three bedroomed house, shouldn't our toilets be exemplary, with so much money spent? The only toilet that I would say the contractor did good job is the Ndaragwa Eco toilet. Mr Speaker, these people should be investigated and, even though we have not put it as one of our recommendations, a forensic audit ought to be conducted. We cannot continue to talk about things here that are never implemented. With those remarks, I beg to move and call Hon. Suleiman Kihika to second.

Speaker: Yes Member for Kanjuri Ridge, Hon. Suleiman Kihika.

Hon. Suleiman Kihika: Thank you Mr Speaker. I rise to second this motion. I have visited these so called Eco toilets but what I observed was not pleasant at all. An Eco toilet should be a place you can sell some of your wares or even sit down and read your newspaper. Our Eco toilets, however, have no adequate space; even the workmanship is extremely poor. You can change the vote head during the procurement process to buy, say vehicles that we can all see and appreciate. However, they changed the vote heads but what they did is not visible. Mr Speaker, with those few remarks, I second.

(Question proposed)

Speaker: Yes, Member for Njabini Kiburu, Hon. James Gachomba.

Hon. James Gachomba: Thank you Mr Speaker. I rise to support this motion. The initial intention of the government, I believe, was to provide proper sanitation and hygiene to the people of Nyandarua. The five Eco toilets constructed were each allocated four million shillings. However, the workmanship is shoddy, to say the least. The one constructed in Njabini, for instance, is still incomplete yet the contractor is very busy seeking the gubernatorial seat. This is a person who was not even in the county government's prequalification list. They discarded the formal list and awarded the contracts to common crooks who would give them some kickbacks.

The Eco toilet constructed in Kasuku was put up on a road reserve under the watch of government officials. That is four million shillings gone to waste. Clearly, there was no due diligence done here. There was no feasibility study done by the concerned parties, all in a bid to get some kickbacks. I agree with the chair of the committee that in future, the government should engage the private sector and private contractors who have no such interests. It is also important that we do a needs analysis before we implement such projects. We should not build Eco toilets just for the sake of absorbing the development funds; we must take into account the population of an area. Some of these areas have no people; only thousands of sheep. Additionally, we should do what is called formative evaluations at every level of project implementation. This way, we will not allow things to go so wrong; we can stop the contractor at any level and award another contractor who will give us value for our money. I was also of the opinion that any BQs should be scrutinized by the sectorial committees concerned so that should there be any inflation, the committee shall be able to point it out. The essence of devolution was to help Wanjiku, not a few county crooks. I support.

Speaker: Yes Member for Mirangine, Hon. David Ndirangu.

Hon. David Ndirangu: Thank you Mr Speaker, I rise to support this motion. This issue of Eco toilets has been of great concern, not only to us but to the public as well. I remember when the issue of toilets came up in the budget, the initial plan was to have every ward allocated its own money to construct its toilets. However, some few greedy officers made sure that the proposal didn't go through and, instead, Eco toilets would be constructed in every sub-county so that they could siphon money from the projects. Their only agendum was to squander public funds. We are at a disadvantage of having packs of hungry hyenas in the government. Even as I support this motion, I must indicate that although Mirangine Sub County is highly populated, not a single toilet was constructed but I believe, because the government of the people is coming into power, equity will be witnessed. I may be going into the polls as an independent candidate but I am in total support of the incoming government for, I know, we shall enjoy great things. Thank you Mr Speaker, I rest my case.

Speaker: Yes County Member from Njabini Kiburu, Hon. Beth Wahito.

Hon. Beth Wahito: Thank you Mr Speaker, I rise to support this motion. I was a Member of the Committee and we managed to visit the various Eco toilets around the County and I noticed that the Eco toilet in Ndaragwa is particularly well done. The only unfortunate thing is that the space on which it lies is so small that the contractor couldn't do much. The Eco toilet in Captain, on the other hand, was so shoddily constructed that the contractor can only be a mad person. The toilet is not even accessible with its entrance flooding with septic waste. Most of the other counties we visited had Eco toilets with small stalls one can stock their wares from and even a lounge. These counties are earning revenue from renting out the extra rooms. Every Eco toilet was allocated 4.5 million. Mr Speaker, this money is enough to build a mansion! We should not allow this to continue. I think it is high time we started scrutinizing those BQs to ensure that we get value for our money. Thank you Mr Speaker, I support the report and urge the county government to give Wanjiku value for her money.

Speaker: Yes County Member from Wanjohi, Hon. Jane Mwathe.

Hon. Jane Mwathe: Thank you Mr Speaker, I rise to support this motion. It is sad that since we came here, we have been passing reports and resolutions here but the executive does nothing about them. Looking at observation 3,

For Ndaragwa toilet, contract agreement, tender evaluation and award minutes were not submitted for audit...

You wonder, how can a firm not avail such crucial documents? More surprisingly, the contractor has already been paid. The Eco toilet at Captain is just adjacent to the quarry yet it was allocated 4.5 million and this is the same case for the Eco toilet at Kipiriri. Mr Speaker, Wanjiku is not a fool. She can also do the calculations. We constructed classrooms worth Kshs 700,000. A whole classroom costing over eight times less than a toilet. It is a high time for the committee on implementation to take up these issues. Thank you Mr Speaker, I support.

Speaker: Yes County Member from Engineer, Hon. Tiziana Wanjiru

Hon. Tiziana Wanjiru: Thank you Mr Speaker. I rise to support this motion. Mr Speaker, these toilets are an embarrassment to the current leadership especially now that we are in a campaigning period. Some of the officers responsible for implementing such shoddy projects have the audacity to vie for political seats. I would urge the people of Nyandarua to vote in managers, not politicians. We need people with a heart for Nyandarua; not those with selfish motives. Mr Speaker, it is very sad that these contractors do not even take people living with

disabilities into consideration when they are constructing such projects. We must know that no one is prone to disability.

We must consider these people. The Ministry of Works is a disappointment and the Members of the Committee on Cooperatives can bear me witness, they are always exaggerating costs. We must understand that the population we are dealing with is highly learned; they are not ignorant and we cannot continue to take them for a ride. They can tell the value of a building by looking at it. They are not the old *cucus* and *gukas* that politicians were dealing with there before. They hold Masters and PhD degrees. I support the motion and urge Wanjiku to be careful when electing leaders.

Speaker: Yes County Member for Ndaragwa Central, Hon. Margaret Wamuyu

Hon. Margaret Wamuyu: Thank you Mr Speaker. I rise to support the report. However, we cannot stand here to cry as the public is crying. When you carry a child on your back, you don't cry when she cries. We have to forge a way for them; we have to give them a solution. Mr Speaker, 4.5 million shillings is enough money to build a mansion let alone a public toilet. We are not dealing with fools. Someone once said that those of us who are nominated are not safe, but none of us is. Wanjiku will put all of us on a scale and judge us by what we did. We have been here for four years, we have seen Wanjiku's money being squandered but we have not brought anyone to book. If anyone has misappropriated Wanjiku's money meant to construct these Eco toilets, let the government make him or her vomit it. Thank you Mr Speaker.

Speaker: Yes Member for Kiriita, Hon. Paul Maina Nderitu

Hon. Paul Maina: Thank you Mr Speaker. I rise to support this motion. This is not the first time we are complaining about shoddily implemented problems. I remember we discussed the Tahal issue at length and promises were made by the executive but none has been implemented. I hear some of those responsible are vying for the gubernatorial seat yet they are unable to implement simple projects. They have allowed themselves to be led by their greed and I can only hope that the next government will step up. We, as the Members of this Assembly, have failed. We have powers to even impeach these officers. Unfortunately, the leadership of this Assembly divided itself along regional lines so that if anyone from Ndaragwa is adversely mentioned, and I am from Ndaragwa, I will immediately jump to his defence whether he is guilty or not notwithstanding.

We are coming to the end of this assembly and I can only hope that we shall have a new government come 8th August that will implement these projects as they are meant to be. Although we are talking of Eco toilets, there are numerous other projects that were either not implemented or were shoddily implemented. There is one in Mairo Inya for instance, that has been in the budget for three years earmarked for the construction of a toilet but for those three years, the money has been going back to the treasury for the simple reason that there is a mismatch between the name of the plot sellers and what is in the land registrar's office. These government officers are parading themselves as if they are the county owners. They don't even pick our calls Mr Speaker yet we are only calling to find out what is going on on the ground, in exercise of our oversight role. Mr Speaker, I wish to stop there and wish the Members all the best. I support and call the mover to respond.

Speaker: Yes mover and Member for Githabai, Hon. Peter Kairu

Hon. Peter Kairu: Thank you Mr Speaker, Sir I wish to thank the Members for their contributions. As I conclude, I must insist on the importance of conducting a feasibility study before we implement any project because like in Miharati, there are three toilets in very close proximity. History will judge us very harshly when these Eco toilets are mentioned. How do we

explain that an entire classroom was constructed with only Kshs, 700,000 but a mere toilet block cost us Kshs. 4.5 million? Unfortunately, we have been singing this song day in day out. Our recommendations are never implemented. I still do not understand how a contractor can be paid when the project remains incomplete. I am calling on forensic auditors to come in and establish exactly what happened to our money because these toilets are an embarrassment. I say shame! shame! Shame! to the contractors. Thank you Mr Speaker, I beg to move the motion.

(Question put and agreed to)

Next order.

ADJOURNMENT

Speaker: Very well, having exhausted the business for this sitting, this House stands adjourned to today, Wednesday, the 31st May 2017 at 2.30 p.m.

(The house rose at 3.40 p.m.)