

REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
1ST ASSEMBLY- 5TH SESSION

OFFICIAL REPORT

(The Hansard)

Wednesday 29th March 2017

The Assembly met at the Assembly Chambers Ol'kalou at 2.30 p.m.

The Hon. Speaker, Ndegwa Wahome in the chair.

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

There is no quorum as confirmed by the Clerk-at-the-Table

Speaker: Quorum having not been recognized, I invoke the provisions of Standing Order No. 34 and direct that the bell be rang for an initial ten minutes or until such time within the ten minutes that quorum will have been achieved.

The bell rings for seven (7) minutes and quorum is achieved as confirmed by the Clerk-at-the-Table.

MOTION

REPORT ON IRREGULAR EXPENDITURE ON ROADS MAINTENANCE AND REHABILITATION
WORKS IN NYANDARUA COUNTY FOR THE PERIOD JULY 2013 TO JUNE 2014

The vice chairperson committee on Public Investments and Accounts Committee and member for Kanjuiri Ridge Hon. Suleiman Kihika Kimani.

Hon. Suleiman Kihika: Thank you Mr Speaker I beg to move the following motion

That this house does adopt the report of Public Accounts and Investments Committee on Irregular Expenditure on Roads Maintenance and Rehabilitation Works in Nyandarua County for the period starting July 2013 to June 2014 as a report of this House and the recommendations therein as resolutions of this House.

Mr Speaker this is the report on Irregular Expenditure on Roads Maintenance and Rehabilitation Works in Nyandarua County for the Period Starting July 2013 To June 2014. If we can remember, there was a report in which this issue was discussed but this is a special report from the Auditor General. We were given the mandate by the Assembly to investigate and compile a report concerning the Irregular Expenditure on Roads Maintenance and Rehabilitation Works in Nyandarua County for the period starting July 2013 to June 2014

Mr. Speaker, Sir, on receiving the Special Report of the Auditor General on Irregular Road Maintenance and Rehabilitation Works in Nyandarua County for the period July, 2013 to June, 2014, the Public Accounts and Investments Committee was, on the 5th day of July

2016, was charged with the responsibility of investigating the audit queries raised therein and compile a report on the same.

Mr. Speaker this report is voluminous and we cannot go through it page by page. We shall only look at the committee's observations and recommendations.

Witnesses were summoned by the committee Eng. Zablou Karenga, Eng. Robert Ndumia, Eng. Charles Ciuri, Ms Ann Kariuki and Mr. Michael Kamau...

Speaker: Member for Kanjuiri may be you can confirm whether your report has page 12 and 13.

Hon. Suleiman Kihika: No

Speaker: That means it was an error. Proceed

Hon. Suleiman Kihika: We interrogated the witnesses that I have just mentioned and we can now go directly to what we observed from those witnesses.

Mr. Speaker, Sir; the committee observed the following:

1. That indeed there was an over expenditure over the budgeted amount.
2. That funds meant for purchase of roads machinery were indeed used for road rehabilitation activities.
3. Neither the Department of Finance and Economic Planning nor the Department of Roads, Public Works and Transport maintained vote books. This rendered tracking of expenditure incurred in the programme almost impossible.
4. The County Executive initiated the programme in question which was labor intensive yet it had not engaged enough personnel to offer the necessary supervision services. Actually, the then CECM for Finance and Economic Planning, in his opinion, told the Committee that the adopted programme implementation methodology was supervision-intensive, thus proper implementation failed because it was evident that the County Government was oblivious of the fact that it had serious human resource challenges.

This was against the PFM regulations (50) (3)

The Accounting Officer of that government entity shall make an expenditure commitment only against the procurement plan approved for that entity in accordance with the Public Procurement and Disposal Act and Regulations made thereunder.

PFM Regulation (51) (a)

No public officer shall spend or commit funds until he or she has been properly authorized by means of an Authority to Incur Expenditure (AIE) to do so;

Mr. Speaker, Sir; the committee recommends that:

1. The County Executive should ensure adherence to the laid down procurement laws and regulations as well as the Public Finance Management Act regulations.
2. The then Chief Officer for Finance should be held responsible for the over expenditure.

The second witness was Mr Jesse Mwangi, a former Chief Officer of Finance. The following are the committee's observations

1. That up to date some pending bills have not been paid despite the committee's earlier advice to the county Executive to pay.

There are so many pending bill as from 2013 that have not been paid. There is a person in my ward that supplied the materials used in my ward and has not been paid to date.

2. The pending bills resulted from lack of proper planning and lack of control of the expenditure by the County Executive
3. That there was poor coordination and liaison between the departments of Finance and Economic planning and Roads and Public works departments.
4. The officers who carried out the programme, acted against the PFM Act 50 (2) (3)
(2) Expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

(3) The Accounting Officer of that government entity shall make an expenditure commitment only against the procurement plan approved for that entity in accordance with the Public Procurement and Disposal Act and Regulations made thereunder.
5. Genuine contractors were not paid particularly those that supplied quarry materials yet the owners of the lorries used to ferry the materials and the machines that that spread the materials fuel was paid.

That was not fair because you cannot pay a lorry that carries the materials and fail to pay the supplier of the said materials.

The committee recommended the following

1. Public officers who led to misuse of public funds should be prosecuted according to the regulation. This is in accordance to PFM Act 42. (1)

An Accounting Officer shall manage control and ensure that policies are carried out efficiently and wastage of public funds is eliminated;

2. An accounting officer should ensure that policies are carried out efficiently and wastage of public funds is eliminated and the governor should intervene to ensure that the genuine suppliers of quarry materials are paid.

The other witness was Zablon Karengi and he indicated that an Executive Meeting held in January 2014 resolved that Members of the County Assembly (MCAs) be involved in the identification of roads for maintenance.

The committee observed that

1. That the three MCA mentioned signed the contracts not as executors but as witnesses to give the suppliers assurance.

This is the story behind the mention of some MCAs the report of the auditor general

2. That there was no ill intention by the said members to defraud the County Government by the said members as up to now the suppliers have not been paid.
3. That the contract document had been prepared by the County Executive.

The committee recommended that

The Members of the Assembly should always adhere to their oversight role and avoid involvement in executive duties and responsibilities to avoid contravening the provisions of the County Government Act, 2012 Section 9 (2)(a) and (b).

(2) A member of the county assembly shall not be directly or indirectly involved in the —

(a) Executive functions of the county government and its administration;
or

(b) Delivery of services as if the member were an officer or employee of the county government.

The next witnesses were the Manager of Nyahururu service station on 26th January, 2017 at 10.00am together with Mr Eric Onyango the then Ol-Joro-Orok works officer. The committee made the following observations;

1. That fuel was drawn without detail orders. Lack of detail orders to record the number of litres of fuel drawn and the mileage covered by the trucks opened an avenue for siphoning away of fuel. Authorising the trucks drivers to record the number of litres drawn by the trucks on the works tickets without confirmation and verification by the works officers was an ill-advised move since the drivers could collude with the petrol station owners to misappropriate fuel.
2. Sourcing of fuel was not subjected to competitive bidding. Instead direct procurement was used without meeting the requirements of Section 74 (2) and (3) of the Public Procurement and Disposal Act.

The committee made the following observations

1. In future proper procurement procedures should be followed and procurement should be done competitively.
2. Officers responsible for documentation should be held responsible...

Hon. Michael Kirumba rises on a point of order

Speaker: What is it Deputy Leader of Majority and the member for Kipipiri hon. Michael Njoroge Kirumba?

Hon. Michael Kirumba: Mr Speaker I want to draw the attention of the vice chairperson to page 28. He might have skipped that but those observations should be mentioned. As much as he wants to be brief, in this report the observations are categorised and therefore recommendations are not the same.

Speaker: I had actually noted that you had not gone through the observations on page 28 and the recommendations on page 31. After you are done with the ones you are going through now you can go back to those on page 28 all the way to 31 for the purpose of record.

Hon. Suleiman Kihika: I thank the member for Kipipiri for noting that, let us go back to page 28. In this case Mr Jesse Mwangi was the witness.

Mr. Speaker, Sir, the Committee carried out investigations into this matter and tabled a report on the same in this House on 16th September, 2014.

Some of the observations and findings made by the Committee were as follows:

- The County Executive's Tender Committee flouted its own conditions of handing over the site to the contractor before the finalization of the lease process. The site was handed over on 18th July, 2013 while the lease documents were signed on 6th September, 2013 contrary to Tender Committee resolution in minutes No. NYA/TC/3/004/2012-2013.
- The main contractor engaged in the renovation and partitioning of the Governor's Office was Edmar Enterprises Ltd.
- The contract date of commencement was 22nd July, 2013 and the same was expected to be complete on 17th October, 2013; that is, after two weeks.

Speaker: Is that really correct. Between 22nd July 2013 and 17th October 2013 is more than two months. It is erroneous to indicate after two weeks.

Hon. Suleiman Kihika: Thank you for that correction.

- A total of Kshs. 7,756,352 had been paid before the signing of the lease agreement on 6th September, 2013.

- The Tender Evaluation Committee that was handling the project consisted of members of Tender Committee contrary to PPDA regulations, hence impairing its independence.
- Contrary to provisions of Section 26(3) of the PPDA and Sections 20 and 21 of the PPD Regulations, 2006, no procurement plan was prepared for the works.
- No inspection and acceptance committee was put in place to issue completion certificates as envisaged by Section 17(4) (e) of the PPD Regulations to ensure compliance with the terms of contract.
- The initial contract price was Kshs. 12,811,950
- The Committee established that the total amount committed to the renovation and partitioning contract as per records availed by the County Treasury was Kshs. 22,343,041, which was close to Kshs. 21,922,951 as per the internal auditor's investigations.
- The escalation of costs violated the provisions of Section 9 of Public Procurement and Oversight Guidelines which states that change in contract price should not exceed 15% threshold.
- Discrepancies between the Engineer's estimate and the quotes by the evaluated bidders would not be a valid justification for not awarding the tender or revising the original BQ.
- The fact that only Edmar Enterprises, among the eight bidders who responded after second tender documents were issued, quoted a figure below the Engineer's estimate is suspicious of collusion between agents of the client and the tenderer.
- At some point, the County Works Officer, Eng. Lucas Musili, informed the Committee that discrepancy between the Engineer's estimate and the quotes by the evaluated bidders could be attributed to missing works in the BQ. This was misleading because bidders could not have factored quotations for what was not included in the BQ.
- At some point, the main contractor was instructed to quote for works that were then awarded to them at their quoted price without competitive bidding.
- The Tender Committee did not maintain all the records relating to the procurement of the leasing and renovation works contrary to Section 12 of the PPD Regulations.
- The procurement process to acquire the renovation of works and leasing contracts did not follow the due statutory process.
- The County Government did not attain value for money due to the inflated prices.

The committee made the following recommendations

1. That all procurement committees should be established as per the law.
2. That the PPOA should debar Edmar Enterprises from undertaking any public construction contract not only in the County but also in the Country due to the Director of Edmar Enterprises' failure to submit documents he had been

required to submit to the Committee and this contractor's likelihood of having colluded with some agents of the client to defraud the client.

3. That the Director of EACC should investigate the officers of the TA who served in Nyandarua County since they failed in their responsibility of overseeing establishment of County Government's initial premises. This should be done in consideration of the fact that the irregular procurement procedures associated with the contract of renovation of the Governor's office took place under their watch.
4. That the County Executive should ensure that in future proper procurement procedures are followed while engaging the services of a contractor.

Review of Procurement Process.

We can go direct to the committee's observations

- i. Most of the suppliers/contractors supplied murram/quarry dust or performed various works without having been issued with LPOs/LSOs.
- ii. Some invoices were lodged before the relevant LPOs/LSOs could be raised.
- iii. Some trucks were deployed for use in the wards without being inspected at the County Headquarters.
- iv. Hiring of trucks, sourcing of fuel and purchase of quarry waste and murram were not subjected to competitive bidding. Instead direct procurement was used without meeting the requirements of Section 74 (2) and (3) of the Public Procurement and Disposal Act which provide that:

(2) A procuring entity may use direct procurement if the following are satisfied:

- (a) There is only one person who can supply the goods, works or services being procured; and
- (b) There is no reasonable alternative or substitute for the goods, works or services.

(3) A procuring entity may use direct procurement if the following are satisfied:

- (a) There is an urgent need for the goods, works or services being procured;
- (b) Because of the urgency the other available methods of procurement are impractical; and
- (c) The circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity.

The committee made the following recommendations

1. That the County Executive's Tender Committee that served during the period under review should be answerable for the malpractices that arose from procurement for the road works in question. This is because it failed to adhere to the provision of Section 227 (1) of the Constitution which states that:

When a state organ or any other public entity contracts for goods or services it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

2. The county executive officer that executed the procurement process should be held liable for their action which led to the misuse of public funds.

According to Section 197 (n) of the PFM Act, a public officer employed by the National Government or National Government entity commits an offence of financial misconduct if, without lawful authority, the officer makes any statement or declaration, or gives any information or certificate, lawfully required by or under this Act knowing it to be false or misleading in a material respect.

Going back to Nyahururu service station, the committee made some recommendation as follows:

1. In future proper procurement procedures should be followed and procurement should be done competitively.
2. Officers in charge of documentation should be held responsible for the loss of the documents as this is against the PFMA regulation 2010 (1)

We invited Mr Jesse Mwangi and we made the following observation after interrogating him

1. No vote books were maintained
2. Senior officers instructed junior officers to write LSOs and LPOs
3. Some genuine were never issued with LSOs and LPOs
4. The officers in charge of budget, being professionals, never advised the County Government on the correct budget to use for the implementation of the programme in question. They opted to use the original budget despite the same, with the approval of the county assembly, having been revised in order to eliminate its deficits. This contributed to over commitment of funds.
5. Officers continued authorizing payments for the roads works despite being aware of the irregularities associated with the same.

Mr. Speaker the committee recommended that

1. Senior officers in the department of finance and economic planning who instructed junior officers in the Procurement Unit to issue LPOs/LSOs without

confirming whether funds were available should be held accountable as it was against the PPDA

2. In future the department of finance and economic planning should ensure that the vote book is well maintained.

Mr. Speaker some of the county contractors had claimed that they had done the KeRRA roads. We observed that

1. The committee noted that it was not clear when the roads were done and when the special audit report on irregular expenditure was carried out.
2. The committee observed that gravelling of Mathakwa- Haraka -Mirangine Road was not satisfactorily done by the county in FY2013/2014 as the same road was also gravelled by KERRA in the FY2014/2015.
3. The committee also observed that there was no clear guideline for the list of roads that were supposed to be done by KERRA and the ones that were supposed to be done by the county Government.

The committee's recommendations were as follows

1. That there should be proper distinctions between the KERRA roads and the County Government roads.
2. Contractors who do not do satisfactory work should be blacklisted.

Mr. Speaker there was Hiring of Earth Mover Machines from private Investors and the witness was Eng. Zabron Karengi.

The committee made the following observations

1. That senior officers failed to advise the County Executive's Tender Committee that served during the period under review on the need not only for open tendering for the procurement for road works but also for inspection of all the hired machinery.
2. That there was no clear way of identifying vehicles that were supposed to be hired.
3. There was shortage of manpower to monitor the private owned vehicles that were hired.
4. That indeed vehicles went on the ground without vetting raising more questions on the eligibility of the vehicles.

The committee made only two recommendations

1. Further investigations should be done to identify who sourced the private owned vehicles without them being vetted and if indeed the county government got value for its money.
2. Further investigations on whether the move to hire private owned vehicles was ill advised.

On the purchase of equipment refurbishment of Office Tender for supply of various Heavy duty Equipment we invited Eng. Zabron Karengi and these were the observations of the committee.

1. Since the county government had already cancelled the LSO it did direct procurement by procuring from Achelis Material's Handling Ltd. This is against requirements of Section 74 (2) and (3) of the Public Procurement and Disposal Act which provide that
2. Although the tenders were terminated there was no evidence that tenderers were notified on the termination of the procurement proceedings and this is contrary to the section 36 (2) of PPDA 2005 on the requirement of procuring entity to give notice of the termination of tender to each person who submitted a tender.
3. The machines that were procured at this time became and are still grounded.

The committee recommended the following

1. Officers who paid using suspicious document should be held accountable.
2. Further investigations should be conducted
 - a. On the procurement process of the machinery.
 - b. The years of manufacture, importation and their countries of origin.
 - c. Why the machines are not working yet there are road works ongoing.

On tender for refurbishment of Offices Mr. Speaker, Sir, the Committee carried out investigations into this matter and tabled a report on the same in this House on 16th September, 2014. Mr. Speaker I remember that we did this report in the past and we are not going to read through all the observations and recommendations. We can now go to the conclusion.

In conclusion Mr. Speaker Sir, the financial management and reporting should be guided by the Constitution of Kenya, 2010, PFM Act, 2012, Public Procurement and Disposal Act 2005 and Regulations 2006, Public Sector Accounting Standards and other relevant legislations and financial frameworks.

Proper record keeping is essential to ensure prudence, accountability and transparency in public expenditure. There is need to automate financial management and revenue collection. The County Government should invest in ensuring that IFMIS, G-PAY, IPPD and Integrated Automated Receipting System in revenue collection are operational. The County Treasury should establish a financial policy to complement existing legislation and financial guidelines on issuance and surrender of imprest.

The County Government should ensure strict adherence to PPDA 2005 and Regulations 2006. Structures should be laid down to ensure that e-procurement is linked to IFMIS as a measure to reduce inherent weaknesses of the traditional procurement process.

Mr. Speaker that is the report of the public accounts and investments committee. We thank the office of the speaker and the secretariat for their support while compiling this report. With those few remarks I call upon the member for Kipipiri to second the motion.

Speaker: Yes Deputy Leader of Majority and the member for Kipipiri Hon. Michael Njoroge Kirumba

Hon. Michael Kirumba: Thank you Mr Speaker I second the report. I however want to make some amendments. The first one is on page 28 the third bullet it is saying ‘The contract date of commencement was 22nd July, 2013 and the same was expected to be complete on 17th October, 2013; that is, after two weeks.’ To delete ‘two weeks’ and insert ‘two and a half months’ and I call upon hon. Josphat to second that amendment

Speaker: Very well, member for Leshau-Pondo hon. Josphat Kamau Njoroge

Hon. Josphat Kamau: I second the amendment as moved by the member

Question on amendment proposed

Question on amendment put and agreed to.

Hon. Michael Kirumba: Thank you Mr Speaker, I would also want to make another amendment on page 56 where it is written that the member for Leshau Pondo said that he had attended a meeting chaired by the Deputy Governor which recommended that the suppliers be paid as it was clear that murram had been supplied.

What he said is that he had seen a communication to that effect not that he had physically attended. The amendment I want to make is to delete the words ‘he had attended a meeting chaired by the Deputy Governor’ and replace that with, ‘he had seen a report from a meeting chaired by the Deputy Governor’ I call upon Hon. Josphat to second.

Hon. Josphat Kamau: I second the amendment as moved by Hon. Kirumba. What I meant when I was giving information to the committee was that I saw the recommendation by the committee that was chaired by the Deputy Governor. The recommendation was that those people that had supplied murram be paid. Mr Speaker however they have never been paid to date. Thank you Mr Speaker

(Question on the amendment proposed)

(Question on the amendment put and agreed to)

Hon. Michael Kirumba: Thank you Mr Speaker for those amendments. I second this report. The vice chairperson has taken the House through all the committee’s observations and recommendations. It is important to note that the observations and recommendations have been categorized as per the witnesses’ accounts. This is because they are varying from one witness to another.

It is also important to note that this is the second report by the Committee on Public Accounts and Investments that touches on the same matter. The other report was adopted in September 2014 and these things seem to be recurring. This is the time to put this to rest. We have however as an Assembly done our part and given recommendations and other agencies should over. We do not have the capacity to do proper investigations but we know that there are constitutional offices that should take it from here. If the Public Accounts Committee of the Senate goes through the report it may give them a better view of the matter.

Mr Speaker I want to refer the House to page 35 where members signed some contracts. We are only 4 (four) months old. It should be noted that the local people trusted their MCAs and they would not have supplied the materials before payment. They did not know those that

were procuring the murrum since they did not know what would happen if they supplied. We should appreciate that to date the suppliers of this murrum have not been paid and therefore no one should read malice in this matter. The members are going through a rough time because if this especially this time when there are campaigns. They told Hon. Peter Maina that they would get her mother's cow. Their opponents are using this against them. It is unfortunate that no one has seen the need to have these suppliers paid. We did not want their names to appear in this report but since they had not been adversely mentioned we thought they should remain there so that people would see what happened.

Mr Speaker there were many mistakes that occurred during that time and the auditors assumed that the reason they occurred was because there was an intention of pocketing funds. That was not the idea. It is because most of us did not understand the system. Jesse has appeared as a witness in almost all the reports that we have compiled. What if he was to be surcharged or jailed?

He signed to approve payments because he thought he was very senior in the county government. It is good that we have now learnt that the law must be followed. What we should do now is to set precedence so that those who will come later will see that things must be done according to the laid down procedures. What we are going to do as PIC/PAC is to agree that errors occurred. The onus to prove otherwise rests with EACC. We need experts to verify whether KeRRA upgraded the roads. The roads were upgraded in last financial years. What would be the best route to close this chapter? PIC/PAC admits problems that occurs. That is the essence of transparency. We cannot really say the problems were intentional. Omissions were there.

To make our story convincing the Hansard Report on this motion should be attached to the report as an annexure. Other agencies should their bit.

If you go back to the record you will find that some Members were very sceptical about the budget for buying the New Holland motor graders. This is because we were used to government vehicles, including Land Rovers and motor graders, being misused. You remember shortly after the New Holland motor graders were bought they developed mechanical hitches and were therefore grounded. Even rollers were grounded. In that case we were not getting value for the capital invested. Why would the County Government source contractors to upgrade roads whereas it owns motor graders? Why should the County Government source for rollers when it owns them? There could be a conspiracy, and nobody cannot convince me that there is no syndicate ensuring that the County Government's machines are not working so that others could be hired from specific individuals. We have seen very old motor graders and rollers in operation. Why should the new New Holland motor grader be grounded shortly after purchase? It is important to ask this when the Chairperson of the Committee on Roads, Public Works and Transport. These machines cost a lot of money. The County Government owns tippers that are not functional.

As an MCA why should I fuel a motor grader to be used in upgrading a road in my ward? Why should I pay a motor grader operator who is on the payroll a daily allowance?

Our recurrent expenditure has overshot. This is notwithstanding the fact that machines like rollers and motor graders are grounded yet the Department of Roads, Public Works and Transport has a complete workforce. All is not well. I do not know how long we shall shout this. I do not know when we shall stop going to deliver files to the Executive like messengers because LPOs/LPOs have been misplaced. We are approaching the end of the financial year yet upgrading of some roads has not started. If we bury our heads in the sand but one day somebody will see this report and see that we never did justice.

The report indicates that a whopping 69% of funds that were not put to proper use during the financial year under review. Only thirty percent of the funds was put to good use. Page 49 of the report indicates under “Tender for refurbishment of Offices” that the contract variation is sixty nine percent (69%). This is unheard of and it is in contravention of the Public Procurement and Disposal Act. This will put some people in problems in future Mr Speaker. The irony is that every evening the officers concerned go telling people that they have come from office, yet they do very little. That is not the way it should be. Having done our bit we should wash our hands like Pontus Pilate.

Mr Speaker, without belaboring more I second the motion and urge my fellow Members to support it for this House to go on record for having done what it was supposed to do since swearing in. history will judge those who did not do what they were supposed to do. I beg to second.

(Question proposed)

Speaker: Yes, Member for Leshau Pondo, Hon. Josphat Kamau.

Hon. Josphat Kamau: Thank you Mr Speaker. I wish to support the motion as moved by the Vice Chairperson of PIC/PAC. I want to take the members through the genesis of this mess that we have found ourselves in and the whole County of Nyandarua at large.

If I can rely on my memory, it all started during a meeting between the Executive and the Members of the County Assembly at Kichakani Lodge. Time was running out because there were no structures at the time. The money was in the budget and as Members of the County Assembly, we felt that our people were missing a lot of trade opportunities because our roads were in a deplorable condition. Under the defunct County of Nyandarua, the roads were in a pathetic condition and therefore, we needed to improve the roads immediately. Since the monies had been allocated in the budget although we had no structures, it was unanimously agreed that the roadwork would begin immediately. That was one of the recommendations that was arrived at during the meeting.

Having in mind that we had inadequate personnel that had been recruited by the County Government, the departments lacked efficiency. That being the case, it was agreed that the roads would be done at the government’s recommended dry rates. Graders and rollers were to be hired on dry rates. Even the murram was single sourced. That opened a window where people took advantage. We had allocated at least Kshs. 9 million per every ward to go to roads improvement. However, some wards spent more than four times of the amount allocated. Actually, some spent between Kshs. 28 million to Kshs. 30 million implying the average overspending rate was about Kshs. 20 million per ward. I would like to say that some officers took advantage of the transition period probably because they were working in the defunct councils.

Mr. Speaker, I would like to emphasize that if we were to get the actual figures, you would see clearly the officers that messed. The monies that were overspent were paid. The genuine contractors were never paid. These were ‘genius conmen’. They utilized the transition period to make a breakthrough in their lives. Were it not for Kichakani meeting, we could not be having this report today. And, this is not the first report we have received on road maintenance during the FY 2013/14. This is the second or the third. I remember the forensic auditors came and I appeared before them and explained what transpired why as an MCA, I appended my signature. It is like everyone was going to Nairobi looking for an escape. In fact, some machineries that were purported to have worked here did not despite having been paid. They were imaginary and they were paid whereas those that genuinely worked were never paid.

I just want to say that it was unfair that all of us including the executive were very new. We wanted, because of the pressure that we were getting from the people, to get them feeling that we were doing what we were supposed to do. We had promised them that, immediately we got elected, we would reverse the situation to a better one. Even today, most of the people who want to be elected are talking of what they will do ninety days after their election. If they happen to get elected, I can confess that these are the kind of challenges they will face.

Mr Speaker, I think that the committee has written this report in good faith. They don't want to isolate any case or victimize any individual. This is what actually transpired.

If this will be followed up by the relevant bodies, it is actually fair to say that a person like Jesse is a victim of circumstances. He was not aware and maybe he never stole any coin. It is true he appended his signature but maybe somebody else took all the monies. He could have been directed from above to sign and allow people to get money.

I am not defending him but I am saying he was a victim of circumstances. He found himself there because he was an employee. If it were anyone of us including Hon. Kirumba, we would have done the same. Kirumba would have appeared in a Committee of the Assembly as many times as Jesse has done and nobody would be willing to listen to him simply because it is his responsibility.

Mr Speaker, if the truth would be told, most of these people adversely mentioned in the report never benefited with the money which was lost. That money went to other people pretending to be clean and watching others from far as they languish trying to exonerate themselves from blame because they might actually find themselves in jail.

(Hon. Peter Kairu raises on a point of order)

Speaker: What is it Member for Githabai, Hon. Peter Njoroge Kairu?

Hon. Peter Kairu: Mr Speaker is it in order for Hon. Joshat to say that the money went to somebody's pocket without providing evidence or substantiating the remark? Thank you.

Speaker: Of course the audit report has found that the Kshs. 400 million was used above the budget and that this money was not appropriated, and was not authorized within the framework of the law. That obviously is misappropriation of public funds. Probably what you did not say is to which pocket it went and you would be required to move a substantive motion to that effect. But from the line in which he is moving, he is properly within the Standing Orders. Proceed Member for Leshau Pondo.

Hon. Joshat Kamau: Mr Speaker I was not insinuating that I know who stole Nyandarua people's money. I am simply saying that some of the people who have been interrogated here are innocent. They will prove their innocence elsewhere but not here. From experience in the number of years we have been here, it seems the department of roads has a lot of weaknesses as Hon. Kirumba mentioned earlier.

Imagine a grader that was procured for about Kshs. 20 million has not been of value to our people. When you ask where the grader is, you are told that it is not working because it has not been serviced by the company. Whose role is it to take the grader to the company for servicing? Is it the MCAs', Executive's or who is it that should it? We are saying this knowing quite well that there is a person who has been employed by the county to operate the machine. If the grader is idle for, let's say four months, the person employed to operate the machine will be paid for no job done.

Mr Speaker, I want to say that the problem has recurred in each financial year from 2013. After tackling the issue of procurement, we are now dealing with another issue of lack of implementation of some of these projects. Imagine a contractor bids for tender and takes an year to complete the project after the contract is awarded. For instance, in my ward, a certain

contractor was given a tender to install culverts. He never backfilled the culverts. It has therefore become too messy to the extent that people are saying that the road was better before the culverts were installed because the vehicles could navigate the road with ease. Now, they have created bumps that vehicles find it very difficult to pass through. However, we thank God that the National Government, through the National Youth Service program, has given us some people to help us backfill the culverts.

Mr Speaker, the contractor is comfortably seated somewhere saying that he is waiting to get paid under the pending bills. This is how serious things are. In fact, if some of these Hon. Members can explain their problems emanating from the department of roads, you would be shocked by their magnitude. But where do you direct these problems?

I want to be very categorical. How do you close a public office for four months? Really? You go to the office all the time and you don't find the office. Even we as MCAs and bearing in mind that we are engaged in politics most of the time, we also have offices at our wards. We try as much as possible to make sure that we are able to be there at least once in a week. I believe he ought to have given us a schedule of when he would be present. You cannot hold Nyandarua at ransom being a public officer. I think that we vetted him and he said he was equal to the task. I don't know what is happening. I think that they are assuming that almost every member of this Assembly will disappear into the thin air come the next elections.

(Laughter)

Mr Speaker, I think it is true. Some members will become the outgoing MCAs if they are not nominated in their respective parties. Thereafter, they will become former MCAs. Therefore, this is where the executive is taking advantage of. They are saying that we don't have teeth to bite. If I may use Kiswahili, they usually say that, '*Haya ni yale meno ya natingika hivi*'. So, I want to say that these could be our last submissions on matters of roads. Let it be known that we did our job but someone else slept on theirs.

Thank you Mr Speaker.

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

Hon. Peter Kairu: Thank you Mr Speaker. I support the report that was tabled by the Vice Chairperson, PIC/PAC. It is very disturbing that majority of the reports that have been generated by various committees of this House have never been acted upon.

Mr Speaker, you start wondering whether some of the issues that we deliberate here go to the archives. This is because since I came to this Assembly, we have passed many resolutions particularly on matters affecting our people. Majority of them have never been implemented. This is the second report on roads for this particular financial year yet nothing has been done. We feel sad at a times because we seem to be acting differently from other counties. A county like Nyeri for instance, fired all those CECMs who were implicated in various scandals. Many of them repaid the money.

Mr Speaker, the issue of the financial year 2013/14 is a thorn in the flesh. Some of the documents that justified the use of various funds were not satisfactory. Some roads stated to have been worked on but when you go to the ground nothing has been done. I wish not to talk about this issue of roads anymore. I appreciated the gesture by the MCAs when they were told that they had been paid irregularly. They agreed to be surcharged accordingly. I was one of them because I had been allegedly overpaid because of some unsigned documents and I am okay with it.

Mr Speaker, some of the murrum was sourced from our people and they are yet to be paid. What kind of a government does this? If these people are powerful or financially well up, they could have already taken the government to the court of law and all the culprits would have been jailed.

Further, when you talk about the graders, you can't help but wonder whether they were procured for exhibition. They are just lying there. Sometimes back, majority of the machineries of this county were lying idle and were all taken to Nairobi for auctioning. We also have an issue with the fire fighting vehicle. It is a toy. We should know whether it was donated to the county or it was procured. It is occupying some space in the garage and almost every time we have had fires, it does not work.

I fail to understand whether we have proper management of the department or what is it that is happening there. It is sad that we still have LSOs that have not been signed since 2013/14 as elucidated by Hon. Kirumba. Someone has been with those documents avoiding to be 'oversighted' and get 'something small' so that they can be cleared. You fail to understand how things work in this county because some officers don't care. When people complain, no action is taken. This is very sad. They are used to our debates. They usually take it as normal shouting when we deliberate in this House.

Therefore, unless we do something about the department of roads in this county, we shall remain in this mess. I was in those offices today. I had complaints about certain road in my ward. People are crying there and somebody seated in the office sees no necessity to act on the complaints. I think it is time to expose some of these issues. Some contracts on these roads were awarded to some of these bosses and that is why when it comes to payments, they are the first to be paid. However, the poor people like the ones who gave murrum have never been paid. They are saying that they wish they knew. They could not have given murrum to these people.

With those few remarks, I support the report.

Speaker: Yes, the County Member from Njabini/Kiburu, Hon. Rebecca Nyangati Weru.

Hon. Rebecca Nyangati: Thank you Mr Speaker Sir. I rise to support the report. I wish to appreciate PIC/PAC for this comprehensive report. From the committee's observations, you find a lot of irregularities. They are saying that there was an over expenditure of the budget. Another irregularity is that the report says that both the department of Finance and Roads did not maintain vote books. This is the issue that has led to the difficulties in tracking expenditures.

Mr Speaker, you can further see that the County Executive initiated a program which was labour intensive although they did not have enough personnel. There is also the query on the fuel that was drawn from Nyahururu Petrol Station. The drivers were given authority to record the number of litres drawn from the petrol station. The LPOs and LSOs were issued after the works were done. Claiming their money are saying that they are being told that the LSOs were not signed. A government is supposed to follow the rules and regulations but you can now see so many irregularities. I do not know why mwananchi who does not know the regulations is being blamed.

I can say that this government want to work with the rich only. The money for the fuel from Nyahururu petrol station and that for the truck hired to do the work have been paid but the common mwananchi who supplied quarry materials was not paid. The County Government should see to it that those people are paid for those materials. I support the report.

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

Jane Mwathe: Thank you Mr Speaker, I rise to support this report and I wish to express my disappointment because; it seems as if we have become preachers who keep telling people to repent of their sins day in day out but people remain adamant. We are always complaining that something wasn't done well but the executive keeps repeating the same mistakes. The IDP- Wenyenyeye-Bara Inya road in Wanjohi ward is an example of such shoddy work. The Roads department claimed that it had gravelled four kilometres of that road but when the

committee visited that road, following a petition from the public, only a 1.6km section had been gravelled. Additionally, the youth that were employed to spread the gravel and the fuel drawn by the vehicles worth over Kshs. 17,000 has not been paid to date. I wonder, Mr Speaker, do we really care for Wanjiku? Why are the implementers defrauding Wanjiku? Hon. Members, we are the first devolution lot and history will judge us very harshly if we do not streamline these things. We will be remembered as the people who watched as Wanjiku was being robbed. We are not playing our role at all, Hon. Members. With those remarks, I support and call the mover to respond.

Speaker: Very well, yes mover and vice chair committee on Public Accounts and Investments and also the Member for Kanjuiri Ridge, Hon. Suleiman Kihika Kimani

Hon. Suleiman Kimani: Thank you Mr Speaker. I wish to thank the Members for supporting this report and also thank the Speaker for giving the committee ample time to compile the report. I also would like to thank the secretariat for a job well done. Finally, I wish to state that this is a report of the entire committee, compiled from the findings of the Auditor General and it is not targeted at a specific person. Much of what we have here is what the witnesses told us. Thank you Mr Speaker, I beg to move.

(Question put and agreed to)

Speaker: Very well, the report is now a report of the House and in line with the liaison arrangements entered between the Senate and the County Assembly, this report with its recommendations together with the Hansard will be forwarded to the Senate for necessary action. They will also be forwarded to the Executive and to the other government agencies required to take up from where the Assembly and the Auditor General has left of.

I am very happy about the format the Committee has adopted in terms of how they have dealt with these issues by highlighting the observations, the committee findings, recommendations, conclusions and Committee's resolutions within the report. This is very commendable as it leaves on doubt on the reader's mind. I, however, I am concerned that although the law is very clear on the procedures to be followed for virement to take place or to overspend, these procedures were not followed yet no reason was given as to why this was never done. Of utmost importance, we are not even shown whether these monies that were overspent gave any value to the people of this county. There is no single attempt to explain what value was given to Wanjiku, the person that brought us to this House. Members, you are aware that the machinery you are talking about had been allocated Kshs.75,000,000 for purchase and it was particularized, when the budget was passed in this House, the kind of machines to be procured. No explanation was given as to why they bought New Holland machinery and not the Caterpillars we had indicated. Our term is coming to an end yet no one has told us why only Kshs.35,000,000 from the Kshs.75,000,000 was spent and what happened to the Kshs.40,000,000 balance. I know the committee has had major challenges in accessing such documents but they must not give up. We must pursue these issues until we get to a satisfactory conclusion.

Hon. Members, you appreciate that the suppliers of quarry materials are our fathers, our mothers, our brothers and our sisters, and it is ironic, comical even that roads were constructed, contractors were paid but the suppliers, the quarry owners have not been paid. Worse still, almost 90% of the 2013/2014 contractors did not come from Nyandarua yet they were all paid but our people who supplied the murram were never paid. It is like paying the consumers of coffee and leaving out the farmers. I am entreating this committee to go out of its way and put the executive to task to answer to the electorate because even as we are seeking re-election for

the next term, they too are seeking to be given a second chance to serve. As we communicate to the Senate, the Governor and the other relevant agencies, the committee has a task still to ensure that our farmers are paid. Next order

ADJOURNMENT

Speaker: Having exhausted the business of the day, the House now stands adjourned to tomorrow Thursday, the 30th day of March 2017 at 2.30 pm.

The House rose at 4.35 p.m.