

## MURANGA COUNTY ASSEMBLY THE HANSARD

Tuesday 28<sup>th</sup> April 2015

The House met at 9:51 a.m.

*(The Speaker Hon. Nduati Kariuki in the Chair)*

### PRAYERS

#### COMMUNICATION FROM THE CHAIR

Hon. Members there is a matter that I would like to address and address very strongly, recently this Assembly has suffered a lot on matters of quorum, people have been coming late or not coming at all. I think it is very wrong for us to be assembling here and we have to ring bells to try and get a quorum and to adjourn the House without doing any business. I do request that you improve on that and also note that if you are not present by the time the House rises, anytime, even if it is after 10 minutes, you are not present, and don't try to make yourself present. If you are not in at the rise of the House, do not make it seem like you are present. I am sure you understand what I mean. Thank you.

### NOTICES OF MOTION

#### DEVELOPMENT OF A STREET LIGHTING POLICY

**Hon. Charles Karina:** I beg to give notice of the following motion;-

Aware that County transport which includes street lighting is a devolved function as stipulated in Part 2 of the Fourth Schedule of the Constitution of Kenya 2010, further aware that urban centres in Murang'a County are faced with high cases of insecurity experienced at night including mugging of the residents and burglary of the various premises, recognizing the fact that this has been caused by lack of street lighting system in these urban centres, lack of proper fitting of security lighting systems and poor functioning of the existing ones on various premises; this House urges the County Executive Member for Transport and Infrastructure to develop a policy on lighting of streets and urban centres including the requirement that all public and private buildings shall be fitted with security lighting systems.

### MOTIONS

#### ADOPTION OF REPORT OF THE PUBLIC INVESTMENT AND ACCOUNTS COMMITTEE, ON THE FOURTH ACCOUNTABILITY KENYA CONFERENCE 2014, HELD AT THE KENYA SCHOOL OF MONETARY STUDIES

**Hon. Erick Kimani:** Mr Speaker sir, on behalf of the Public Investments and Accounts committee and pursuant to standing order 183, it is my pleasure and duty to present to the County Assembly, the committees report on training and participation in the Fourth Accountability Kenya Conference held at the Kenya School of Monetary Studies, Nairobi.

The Public Investment and Accounts, is a select committee, established under standing order 189. The committee was constituted by the Assembly on May 24, 2013, pursuant to standing orders. The mandate of the committee is to examine reports, accounts and workings of the county public investments; examine, if any the reports of the Auditor General and to examine, 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.

However, the committee, in its mandate shall not examine matters of major County or National Government policy as distinct from business or commercial functions of the public investments; matters of day-to-day administration; and matters for the consideration of which machinery is established by any special statute under which a particular county public investment is established.

The powers of this committee Mr. Speaker are driven from the standing order 175 of the Murang'a County Assembly, Article 195 of the Constitution, and Section 392 of the County Governments Act, State Corporations Act Cap 466 and the Public Audit Act, Cap 412, to summon witnesses, examine them on the oath, receive evidence.

Mr. Speaker, the committee of Public Accounts went for training last year 4<sup>th</sup> November 2014 under an umbrella body Accountability Kenya established in 2013. It is an umbrella body of all the state and legislative bodies that are involved in promoting, ensuring and enforcing accountability in use of public resources. Accountability Kenya membership is drawn from

1. The National Assembly Public Account committee
2. The Senate Public Accounts committee
3. All Public Accounts and Investment committees from the 47 County Assemblies
4. Kenya National Audit Office-KENAO
5. Ethics and Anti-Corruption Commission-EACC

Mr. Speaker, Accountability Kenya has a Secretariat and 8 regional Chairmen drawn from its membership, apart from educative conferences, the organization offers a link among the membership bodies to promote their collective objective.

Mr. Speaker without dwelling on the background of Accountability Kenya, I would like to take this Assembly to the key note address by the Chairperson; the role of Public Accounts and Public Investments committee's in ensuring prudent and responsible usage of public resources. The Chairman noted the need to ensure all investments made by the executive should be done within a legal framework to prevent misappropriations that are frequent in instances of legal gaps.

Objective approach to investigations should guide the role of PIAC even though it is an outfit within a political environment and managed by political office holders. PIAC's watch dog role should not be misused as political/personal interest hunting ground that hurts the place of the committee as credible over sighting authority while jeopardizing would be witnesses thus denying the committee strategic information necessary to its mandate.

In analyzing evidence presented, the committees should focus only on verifiable facts since the reports produced are pre-disposed to court processes.

The relationship between legislature and the judiciary and the resultant effects on the PIAC activities was outlined, he noted the ongoing deliberations to ensure the Judiciary does not hamper the committee activities that are within its mandate.

The place of National Assembly PAC in devolution of funds to the counties was emphasized, since the formula relies on the last audited government accounts

The Chairman outlined the existing regional partnerships and affiliations that Accountability Kenya has gotten into and the avenues of regional accountability that are being explored.

Mr. Speaker, in interrogating audit reports, the session was facilitated by the Office of the Auditor General; who recommended the following to the membership; to ensure there is a prosecutor when making inquiries regarding audit report-this will improve the committee's ability to understand the financial and accounting bits in the audit report and interrogate facts in witness submissions

To engage the office in regard to special audits involving projects that were voted in the budget line, the project should warrant a special audit either on grounds of urgency, amounts involved, public interests/sensitivity since it can still be captured in the annual audit. That KENAO can carry out forensic audits upon request

Mr. Speaker; on the rationale purpose and current status of PIAC, the session was facilitated by Mr. Murunga Werunga-Clerk Emeritus Parliament. The following recommendations were made to the participants; the PIAC exists to spearhead the oversight role of the legislative bodies. Its focus should be limited to the expenditure that the Assembly voted for in the budget. As an agent of the Assembly, the committee should ensure the Assembly is updated on progress made while ensuring active participation to ensure debate on motions is well informed and the bills have the necessary legal checks to mitigate future accountability issues. Membership should be versed with practices in government accounting and procurement procedures.

Political parties should ensure competent nominees to the committee. The committee should engage experts to demystify technical information necessary to the committee activities, however caution is necessary while engaging the third parties-individuals or organizations, to ensure they do not further a partial agenda through the committee.

Mr. Speaker, noting that these documents were sent to every members tablets, I do not wish to go through every part. I wish to go direct to the recommendations that the committee agreed upon; in view of the information presented and the challenges identified; the conference resolved as follows;-

1. That the committee's and Accountability Kenya member agencies commit to promote collaborations, essential information sharing, best practices promotion to ensure a raised bar in oversight and accountability.
2. That the participants will advocate for the formation of an audit committee in their respective assemblies.
3. That Accountability Kenya will explore possible partnerships with all agencies involved in anti-corruption including the police.
4. That Accountability Kenya will continue creating affiliations with regional bodies of similar objectives, and provide exposure forums to address emerging challenges.
5. That Accountability Kenya will involve the Senate PAC in subsequent activities.
6. That the PIAC committee will push for sufficient budgetary allocations in regard to its responsibilities and training expectations, I repeat recommendation number six, that the PIAC committee will push for sufficient budgetary allocations in regard to its responsibilities and training expectations
7. Establishment of an audit committee,

Mr. Speaker, those are the recommendations arrived at during that workshop. Mr. Speaker, we wish if this is implemented, now that we have just started the devolution structure, it is good to enhance the PAIC's in the Assemblies so that we can have a good oversight committee that will ensure that the county finances are prudently used by the

county government. I wish to call Hon. Jimmy Kagoni who is a member of the PIAC committee to second.

**Hon James Kagoni:** I stand to second the motion. As the mover has mentioned, this was five days packed with a lot of information and exposure on the mandate of PIAC. Mr. Speaker there were several things that we learnt and they guided our recommendations on the particular issue. From the exposure we got, the PIAC in all the 47 Assemblies have had challenges and achievements in equal measure, we have had our challenges and achievements here as well.

We were exchanging notes on our achievements in carrying out our mandate, so that we can be better custodians of the public resources and the way they are spent. We learnt a lot on the PIAC having a room to deal with its own matters in a room. Some of the documents we handle are sensitive, when they are left together with other documents, when clerks or other staff of the Assembly are going through the documents, they find that some documents are lost and someone is tempted to pluck a page because maybe the report we are discussing is in regard to that particular individual.

As a committee we are grateful because your office has already given leadership on some of our requests, like being able to get our own room to keep our documents and safeguard them from there. The office of the clerk has given us a dedicated clerk who is able to do so. Like we learn in the National Assembly, there is a committee room number 7 for the PAC which is not interfered with. Initially we would find that people are taking tea from our room Mr. Speaker or people are having other meetings but we are happy that now we already have that Mr. Speaker.

On another recommendation and we hope this one will be follow suit, this is the only committee in the Assembly that is not limited to budget, When discussing and writing these reports Mr. Speaker some of them you cannot do them in these rooms, when you are debating and mentioning names of Kagoni and others and people are passing and they can hear, it becomes very hard even to write Mr. Speaker. Some of the challenges we were sharing were on the issue of every discussion must be based on KENAO report. Which we also have a mandate where we can also initiate our own investigations.

Previously we had tried to look on other matters and we realized it was very hard to investigate on matters because people will always block us and ask whether we are acting on audit reports. But as we later learnt, we can also initiate our own investigation even as we are waiting for KENAO report and Controller of Budget report so that we can compare and form the basis of our investigation on how the public money has been spent in the Assembly or even the county. And that one gave us a leeway because we previously felt like our hands were tied as we could not be able to move without the Controller of Budget report or the KENAO report.

One of the challenges we are having is that the office of the Auditor General has a lot of work, even when you request for a special audit report it takes a lot of time before you get it so our mandate as an oversight committee becomes crippled as we do not have the basis of where to begin.

After the convention we felt we now have the freedom where we can be able to initiate our own investigations on the areas we feel the public money has not been spent prudently and it needs the county assembly to intervene.

Besides that we learnt that we are not the only Assembly that is suffering from certain challenges and we realized other Assemblies are suffering from similar challenges even the National Assembly is suffering the same where you come up with a report and just two days before we table the report or we are supposed to discuss the report in one way or the other it leaks and then we start receiving phone calls from the people who are mentioned in the report and members are compromised and very few are willing to sign the report, and eventually when you are laying the report in that sitting, only two members of the committee are in the Assembly

This is a challenge to many Assemblies. Recently we saw it in the National Assembly where the members of the Public Accounts Committee are compromised by the issues they were investigating Mr. Speaker.

There is only one way of protecting members from being compromised. Other than the individual integrity of the members is to ensure that the committee of PIC/PAC is not limited to funds. When we are limited to funds there is always that temptation of the members being compromised from other sources especially when the members are very broke it is very easy for them to be compromised and we even saw it in the national assembly.

I am urging the chairman budget that when he is looking for the budget allocation for PIC/PAC to make sure that it is not limited so that we can move any time. Not that we really want to go to Mombasa but for the purposes of eventualities like those ones members are able to flex their muscles very clearly bearing in mind this is a watchdog committee in this Assembly.

As we look at the matters as they are in this report, we realize that especially now we have a lot of work. The quarterly report from the Controller of Budget is here with us for 2014/2015 and I am adequately advised that even the one for the second quarter has arrived, which needs this committee to look into and see how the expenditure of the county has been and it is important.

The only challenge is that we do not have money. We cannot be able to interrogate or look into this report because there is nowhere we can even go to study this report. We urge your office and that of the clerk if we can be able to get some little money or even some of these things can be done on borrowed facilities so that we do not put Assembly in a predicament situation where it looks like it is not able to do its work.

Finally and this is a challenge because we have been talking about expenditures both in the county executive and County Assembly, and the committee that is supposed to work on that is PIC/PAC unfortunately as we speak there is little that we can be able to do. There are a lot of files pending that are waiting for our investigation, which we are not able to look into and we are coming to the end of this financial year and it is quite a challenge. If there are any interventions then we will really appreciate.

The last point that has been mentioned by the chairman is that there is need to form an audit committee. That came as a resolution from that conference; the committee should be well assisted even with staff knowledgeable in accounts so that they can be able to break down the issues that are mentioned in some of those reports. Because you will find a committee consists of members exposed from other disciplines apart from the accounts and accounts matters are very technical. They require people who can be able to analyse very well and are able to identify the loopholes.

What happens when we are investigating and we have a person to appear before the committee who is conversant to accounts, when he starts using terminologies and members cannot understand, it gets very hard, but if we have the audit committee that sits before the committee itself and is able to breakdown the matters, then the committee members will be able to digest them from a layman's perspective and they will be able to give a very good report which will give this Assembly a very good image. I stand to second.

*(Question proposed)*

**Hon. Joseph Kimani:** I stand to support the report and I congratulate the committee with able chairman of the PIC and say that the PIC is the backbone of the county.

I would also say as they have said in their report number 3(1)(4) on EACC partnership with Assemblies on protection of the corruption, I will very much support that we have the audit committee included in our standing orders, because you will agree with me that according to the Constitution PIC are said to be relying on reports from the Auditor General, but when we have the audit committee we shall be able to have a lot of information on what is happening up there. The audit committee will also be assisting PIC with information and I am sure things will change.

On the other side we need to have that Assemblies should demand transparency and accountability in budget management to strengthen the capabilities of corruption detection.

When we have the audit, they will be giving us their report and I also believe the executive will be careful with budget management when they hear that we have the audit committee. I stand to support the report.

**Hon. Gachui Mungai:** As I stand to support the report from the public investments and account committee. I have made some observations from the mover of the motion that the committee is most likely vulnerable to compromise maybe because of many matters not only on the budget constraints.

I would not agree with the mover that the committee should be given unlimited budget. That is an open cheque that is also subject to misuse by the members because they are also human beings and everybody came into this House to help the people and the county and of course to help themselves.

The report is very comprehensive and this committee needs to be given support by the whole Assembly. You will agree with me when the Assembly or any other Parliament is seen to be sleeping most probably it is the PIC committee is sleeping because as a member has said it is the seconder of any legislative arm.

The issue of members not being compromised is about the integrity of each individual member. The seconder of this motion said the issue of money is the one that can lead members to be compromised.

Money is never enough, even if we give this committee unlimited budget which is not possible under the law, it is good for us to underline the words it is not possible but we are going to give them a substantive amount of money so that they can be able to carry out their mandate properly.

I have said money is not enough, the issue here is about the integrity and I have heard the seconder of this motion saying some members have been persuaded, maybe in other Assemblies, members are persuaded to withdraw their signatures or not to attend the

Assembly when the report is being tabled. That one alone exposes even our committee to questionable character because I do not know what the seconder wanted to mean. Whether it is in this Assembly or other Assemblies but the mover will clarify when responding because that is something that worries this Assembly but we have a lot of confidence although this committee has never brought a substantive report in this Assembly, but we have a lot of confidence in the committee.

The issue of committee not producing any report because they do not have a budget, it is good to remind the committee that we have the sittings that are provided for by SRC and I think these committees should not have any other agenda than the one laid on the table by their committee clerk. So the issue of saying that they are not doing enough because of lack of budget and we know in the liaison committee that this committee has been **confided** in the schedule of meetings, in fact at one point the chair requested that the committee be given unlimited meetings and we did so as liaison and they never brought a comprehensive report. We should remind them we have a lot anxiety as to why these reports they have not been coming yet we know the committee has been sitting.

The chair of the committee elaborated very well on the recommendations and I am sure we are all learning and we have two years since devolution started and we have been learning and we have had so many workshops and so we should not keep on saying until fifth year the devolution has started. It started two years ago so the committee should not be giving us the excuses because it is the one that can break this Assembly in terms of oversight.

The other issue is good because the mover and the seconder have tried to convince the members we are going to adopt this report because it is a wonderful report, but I want to remind the committee there are so many laws that guide the operations of this committee. Apart from the recommendations they have made there are so many other laws that they need to know how they should be able to carry out their mandate because we are expecting a lot from them.

I stand to support and of course remind them even if we give them a lot of money for the budget the sittings under SRC are four and even if they sit eight times they cannot be paid because it remains under the law. I thank you Mr. Speaker.

**Hon. Mary Waithira:** I rise to support the report of the committee where I am also a member and I felt that it is also good for a member other than the mover and the seconder for us to say that we are in support now that our signatures are there saying that whatever that is there came from all of us.

I want to start by thanking your office Mr. Speaker because some of the challenges that we have realized as a committee when we have come to your office you have been of good use and I must commend you for that.

When we look at the report it is talking about the meeting that we attended for the fourth accountability Kenya. If we look at the meaning of the word accountability or the whole of its meaning, it usually tells us how the committee dealing with such issues is supposed to behave. I tend to think it is from this committee that we are supposed to get very effective, efficient and fair hearings and a lot of investigative and secretive issues before we come to writing of a report. It is a committee that is supposed to be so much committed to the work it does.

Therefore, Mr. Speaker sir, that is why we supported all the recommendations that have been laid there, from number one to number seven, however, we still have some challenges and many of them have been spelt out by the mover and the seconder, like the issue of why we need more time. Even if we are not going to say as the Deputy Speaker is saying on open cheque, let our budget not be equal to the others because the work that we are supposed to do is not that which you can sit as a committee and write a report without first of all investigating.

We cannot also do our mandate in the premises of this Assembly, we need to move out. When we hear that our budget is equal to all the other committees, then as a committee, we feel that our hands are tied. That is why we are saying that we need to have more money in the budget for the committee so that we can realise good reports that are not biased and that are of quality as per what is expected.

Mr. Speaker sir, I also think that as we go about investigating based on the audit reports, it is of essence for members to know that there is no problem with one pulling out when a report is being written should you feel that there is some bit of conflict of interest, or feel that you are affected, But, I want to say that much has been said about corruption, I do not want to say that we should be given more money so that we do not fall into traps of corruption. Corruption is in someone. If you are corrupt in nature, you will remain corrupt no matter how much money or millions you may be given. Therefore, I feel that the members of this committee are supposed to hold very high integrity standards.

Whenever the audit report comes, it does not come as a secret. It is seen, it is perused. Most of what is contained is known to, mostly, the people who are affected. Before it reaches the Assembly, it first of all gets into the Governor's Office, it is then directed here. So, it is not a secret whenever we are going through it. That is why we are saying that there will still be people who will feel that they will need to talk to us so that as we write reports, we may be a bit lenient. But I am saying that if only we hold high integrity, we can realise reports that are not biased.

A lot of benchmarking, Mr. Speaker sir, together with training, is needed for this committee because we need to hear other committees such as the Senate committee and the National Assembly- before it was associated with corruption issues that we are talking about, so that we may borrow a leaf unto how we can go about some issues when we get them in the report. So, you can see that it calls for more money to move out after we request for training.

I want to say that we tried the much that we could since the budget could not allow the work that we already have to finish, you can see as early as two and some very few months, we already have some backlog. Mr. Speaker sir, there was an annual audit report that was presented to this Assembly to look into the transaction of business for the Defunct Local Authorities, but as you can see, that audit report is not yet. We quickly went into the special audit report while that annual audit report is still pending in one of the rooms in this Assembly.

Mr. Speaker sir, you can also remember that we were mandated to look at the documents for the refurbishment of this Assembly, we have not yet also looked at it, this is all about money. When money is not available for this committee, we may not be able to act very fast so that the report is tabled in this Assembly. The moment PIC is not bringing reports, then you can see much of the business that is required here might not be there.



The annual audit report is already out. Do we start that one or do we go to the one of 2013 or to the refurbishment? So, you can see that we already have backlog. That is why I am saying the feeling of the Members of the committee is that we need to have a bit of commitment by the members. We also need a bit of some considerations when it comes to the budget so that we are not talking of maybe a challenge that we cannot be able to forego a certain business because money to go out and do something is not there. That is not a language that is supposed to be heard in the committee of the PIC/PAC which has been given a lot of work to shape the accountability of the money that has been given to this county to be effective and to give development and better services to the people that we represent.

So, that is why we are requesting this House and these dear Hon. Members to support the same so that, at least, we may realise that. Mr. Speaker sir, if you look at number seven, we are requesting that, at least, there be an establishment of an audit committee in this County Assembly so that it can help and this work may not be too much to one of the committees. With those few remarks, I support this report. It is my humble request that the rest of the Hon. Members in this House will also support the same. Thank you.

**Hon. Martin Mwangi:** Thank you very much Mr. Speaker sir. I am also standing here to support this report. It is a good report. We can see that it has tackled many issues. As we debate this matter, many members are still dwelling on the committee. We are having a request that we increase some budget to the committee, but when we look at this committee of PIC in this House, just as the seconder was touching on some of the issues, we question their commitment. I was counting and there was a time in this session when we were having only four members, they were coming and leaving, some are not committed.

So, we are talking about time. We can constitute this committee again and make sure that those who are in the PIC committee are only in that committee, just like in Parliament, but I do not know if it is a tradition we have here where members have even four committees. When we are talking of time, how can you be available and you are in four committees? That seems as if you can only attend to this committee once per week. By that move, we cannot go anywhere.

So, we support this committee the way they want us to support them in this House but, also, why should the members be in four committees yet you are complaining of time and budget. There is no way you can fulfil what you are supposed to do. This is a very serious committee. In fact, a member in more than two committees while still in this committee might not be serious. If we want seriousness, we must make sure that the committee members do not have more than two committees. Those who want to have more may chose other committees so that we have seriousness in this committee. The way I look at the membership, I do not even know whether some of the members attend. We can maybe compare their contributions.

*(Laughter)*

This is a very serious committee, same as the Implementation and other committees that want to make sure that this House is working. Mr. Speaker, we do not want to continue being challenged even outside by people saying that, "Murang'a Assembly, we are not seeing as if you are doing something." Yet we know that we are doing something and maybe our pace of doing is what matters.

So, I support the report. We can hear the cry of the committee but also, we need to look at this committee again. I know there are letters which were circulated to the chairpersons of the committees to make sure that the membership of the committees are working. We are still waiting to see how the chairman of this committee is going to act so that this committee can be vibrant in its work. We do not want to hear complaints. We want to see work being done by this committee so that this House can move towards the right direction. Thank you, Mr. Speaker.

*(Applause)*

**The Speaker:** I ask the mover to respond.

**Hon. Erick Kimani:** Thank you Mr. Speaker. I first of all thank the members of this House for supporting this motion. I would wish to make very few comments because the members have deliberated on most of the issues. One is that, I thumbs up the integrity of the members and the commitment as well as the support of the PIC committee members. They are good people, they have been supporting the committee.

On the issue or the concern by some of the members that the committee has not been submitting reports, I would wish to make the members of the House aware that the PIC reports are not just like the sectoral committee reports, these reports require a lot of time to do investigations and as we do investigations, the committee does not rely on propaganda. We basically rely on facts and figures. So, that is why we may take some time but after concluding our investigations, we then present something that cannot be questioned even in Court. So, Mr. Speaker, that is why sometimes we take some time because we would not want to bring contradictory reports in the House.

The other thing, Mr. Speaker, the reason why this committee is asking for a bigger budget is to enable them carry out more investigations. Other committees like the sectoral only rely on that single department, but you find us even going to the parastatals, all the sectoral committees, and in all the sectoral departments in the Executive. This involves some finances. So, requesting for this money is not for these members to get some money in their pockets or to maybe feel that they are financially stable but to enable them carry out investigations.

Mr. Speaker, the issue of preliminary investigations has been cited. As we request for the special audit reports, the committee can do some preliminary investigations awaiting the Auditor General to present the audit reports. Unlike earlier when the committee was said not to carry out any investigations, the committee is now allowed to do preliminary investigations so that members can even compare their findings and those of the Auditor General, that is allowed.

On the issue of the committee having some special allocations, like having a separate room for them to meet, this is due to some of the investigations for the report or issues that are very sensitive. We may not have an effective committee where anybody is looking into these reports because maybe they are kept somewhere in the registry or maybe in unsafe safe, so, the request for us to have a separate room is to make sure that all the reports are safe.

I said that I thumbs up the integrity of my members, they know how to keep the secrets of the committee, they do not move up and down in the clubs or streets maybe discussing the issues of the committee with other people. So, if we are given that separate

room with those safes, at least the committee will have its work done effectively and efficiently.

I thank all the members for supporting this report and I will request that the House Business Committee will consider the committee as one member has said about the committee membership. Rarely do these members fail to attend the committee meetings, they do attend, but I think that the few issues that the committee would wish to strengthen on are works of the House Business Committee which will sit and know the way forward. We seek your support, Mr. Speaker. Thank you, Mr. Speaker.

*(Question put and agreed to)*  
*(Applause)*

Next

### **ADJOURNMENT**

**The Speaker:** Hon. Members, the House is now adjourned until 2:30 p.m. this afternoon. Thank you.

*The House rose at 10:45 a.m.*