

MURANGA COUNTY ASSEMBLY

THE HANSARD

Wednesday, 5th October 2016

The House met at 2:40 p.m.

(Temporary Speaker Hon. Beth Ngugi in the Chair)

PRAYERS

PAPER LAID

REPORT OF SELECTION COMMITTEE ON NOMINATION OF MEMBERS TO VARIOUS COMMITTEES

Hon. Jane Ndegwa: I beg that selection committee report on nomination of members to various committees be laid on the table of the Assembly today October 5th 2016. I thank you Madam Speaker.

NOTICE OF MOTION

ADOPTION OF SELECTION COMMITTEE REPORT ON NOMINATION OF MEMBERS TO VARIOUS COMMITTEES

Hon. Jane Ndegwa: I wish to give a notice of motion;-

That the House adopts Selection committee report on nomination of members to various committees laid on the table of the Assembly today October 5th 2016. Thank you Madam Speaker.

STATEMENTS

REQUEST ON OPERATIONS OF MURANG'A COUNTY CREAMERIES

Hon. Duncan Njuguna: Before I request the statement, I would like to recognize the presence of among others the student of Mathioya secondary school in Gitugi ward led by their two teachers; Mrs. Ititu and Mrs. Nyoike.

Pursuant to standing order 45 (2) (c) I request for a statement from the chairperson Water and Energy, Forestry, environment and Co-operative Management committee on the following;

1. Is he aware of the amount of milk collected in all the coolers in Murang'a county every day?
2. Is he aware of a contract between Murang'a County Creameries and Brookside Dairy? If the answer is in affirmative kindly provide this Assembly with contract documents indicating the price of milk per litre and litres of milk sold to Brookside.
3. If Murang'a County Creameries collect more milk than the quantity required by Brookside Dairy what happens to extra milk.
4. Was there any money paid to the farmers in term of bonuses in the year 2015. If the answer is in affirmative provide a report indicating how much money was paid to the farmers and when the money was paid.
5. What is the source of funds for coolers operation?

Thank you Madam Speaker.

Hon. Joseph Machiri: Thank you very much Madam Speaker, with your leave may I welcome the students of Michuki and the other school. Which school is that?

(Laughter)

The one from Mathioya

Madam Speaker in order to respond to that statement comprehensively I request to be given 14 working days.

Hon. Duncan Njuguna: I am comfortable with 14 working days so long as I will receive the response without delay.

MOTION

ADOPTION OF REPORT OF THE PUBLIC INVESTMENT AND ACCOUNTS COMMITTEE ON THE APPEAL FROM THE SECRETARY TO THE COUNTY PUBLIC SERVICE BOARD ON REPORT ON PROCUREMENT ON PUBLIC SERVICE BOARD HOSPITALITY RELATED GOODS FOR THE PERIOD 16TH AUGUST 2013 TO 31ST DECEMBER 2014

Hon. Mary Waithira: Madam Speaker I move the motion;-

That this Assembly adopts the report of Public Investment and Accounts committee on the appeal to the secretary to the County Public Service Board on report on procurement on Public Service Board hospitality related goods for the period 16th August 2013 to 31st December 2014 laid on the table of this assembly on 4th October 2016.

Madam Speaker this Assembly sat on 11th February 2016, and adopted a motion sponsored by the Public Investment and Accounts committee that stated that the Assembly adopts the report of Public Investment and Accounts committee on procurement on Public Service Board hospitality related goods for the period 16th August 2013 to 31st December 2014.

Madam Speaker, when this Assembly adopted this report, it was forwarded for implementation. It had recommended that the Secretary to the Murang'a Public Service Board be surcharged for flouting the Public Procurement and Disposal Act, 2005 for an amount Kshs. 84,835; that was a loss incurred meant for the public. We the Public Accounts and Investments Committee (PIC/PAC) had recommended that the said officer be surcharged for that money.

Madam Speaker, later on the committee received an appeal, dated 29th February 2016, against the decision of this Assembly from the Secretary Public Service Board. In a sitting with the Public Service Board Secretary held on 26th July 2016, we cross examined the document and got an explanation from the said Secretary.

While taking evidence, the committee was guided by the existing procedures and modalities of operation of the Murang'a County Assembly derived from the Constitution of Kenya, 2010. We also considered Article 226 (1) (5) of the Constitution of Kenya, 2010 that stipulates that if the holder of a public office, including a political office directs or approves the use of public funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.

The grounds of appeal from the Secretary to the Public Service Board were three. He cited that by being the Secretary to the board, he was not designated as an accounting officer by that time. The other reason was that the Service Board did not have a budget such that it would have incurred such a loss. He also said that he did not steal or benefit from the said amount, Kshs. 84, 835. We therefore requested him to appear before the committee so that he could explain properly the reasons of appeal.

We looked at ground one and it was true that his appointment as an accounting officer was officiated in 16th April 2015 by the County Executive Committee (CEC) Member. If you can remember, all those members who were sitting in the Public Service Board did not have

appointment letters. It was not until the committee on Governance questioned the legality of the board that they recommended it be disbanded or appointment letters be issued to them.

They continued to draw salaries and execute their works and we had to invite the County Secretary who alluded that he was the accounting officer, in spite of the appointment letters having not been given; that was captured by the Hansard.

They continued carrying on with the business as per the mandate that was required of them, even without the appointment letters. It therefore beat logic that he had agreed that he was the accounting officer but now wanted to go against what he had said before.

If you look at ground number two, they said that they did not have a budget because the County Public Service Board was new and we agreed to that. However, when this information was brought to the committee for us to examine it, they agreed that they were working on imprest that was given to them from the department of Finance. It was that imprest that we were really questioning on how they went about the hospitality goods. This imprest was in form of money and he agreed that whenever they were given the imprest, they would use it to source for milk and other related goods in question.

Madam Speaker, it does not therefore matter if they were working with a budget or not because even the imprest that was being expended to, they used to return this so that it would be accounted to the department that had the budget. It was therefore real money that needed to account for.

For ground number three, this was on adherence on accountability discipline, there is no way you can exaggerate figures; you use money and you are not adhering on prudent usage on PFM Act, then you bring other information or stories.

We listened to him a second time after he appealed and we also reviewed all the documents that he provided. The committee still realised that the misuse of public resources amounting to Kshs. 84 835 was done in an exaggerated manner. The work of this committee is to make sure that there is value for money.

We therefore must make sure that there is prudent usage of money which belongs to the members of the public. It is for us also to make sure that the money is used in an economical way and benefit the common citizen of Murang'a.

When we looked at all these, there was nothing convincing to the committee to lift the said sanctions that had been recommended by the committee. In our recommendations we upheld that the said amount was exaggerated, used in a manner that could not be explained. and also in uneconomical way .we therefore maintain that the said recommendation be upheld.

As I stand here as a member of the said committee, we must make sure that proper management of public finances is an obligation that needs to be addressed with soberness by all the stakeholders for the benefit of the people of Murang'a.

Since this one was not used, we still maintain that the same report that was adopted by this Assembly on the said officer, the Secretary to the board Mr. Kamami be maintained. He be surcharged the Kshs. 84,835 .That is the report that I was moving, we tell the said officer that his appeal could not convince the committee to advise this Assembly to do otherwise.

Otherwise that is the position and we still recommend that the said amount be surcharged by the said officer. With that I call upon hon. Peter Murigi to second the motion.

Hon. Peter Murigi: Madam Speaker I second the motion.

(Question proposed)

Temporary Speaker (Hon. Beth Ngugi): Motion is open for debate Hon. members.
Hon. Duncan Njuguna

Hon. Duncan Njuguna: Thank you Madam Speaker, even if I will stand alone and say no, I will say it alone to reject this report. We are now three years down the line and the best thing the Public Investment and Accounts Committee (PIAC) can do is to bring a report on one Mr Kamami who has not gone through the process of procurement through the right way is surcharged to pay Kshs. 84,835.

To me this is a joke. I would say as the Senate once said, Senate is an Assembly like this one. The threshold of surcharging Mr. Kamami is not me.

This being the first fiscal year 2013/2014 we still have the 2015/2016 and the auditor General has also done that one and also with 2016/201 .Yet we have not received anything concrete from PIAC .According to these recommendations, that, one person be surcharged for procuring milk to me----- there is a lot that has been misappropriated. We did recommend last year that someone to be surcharged yet nothing was done. We cannot purport to be playing an oversight role on behalf of Wanjiku and surcharge Kshs. 84,835 only. On behalf of the people of Gitugi I stand to oppose this report. Thank you.

Temporary Speaker (Hon. Beth Ngugi): Hon. Kagoni

Hon. James Kagoni: I equally want to take this opportunity, with your leave Madam Speaker to acknowledge the gallery team from Michuki Technical and also from Mathioya secondary school and welcome them here. I stand to reject that report. I sit in that committee, and in the two or three meetings the gentleman appeared in the committee, he expressed himself very clearly and if you look at that report you will notice that I have not signed because-----

(Hon. Mary Waithira on a point of order)

Temporary Speaker (Hon. Beth Ngugi): What is your point of order, hon? And remember you cannot speak to a question twice.

Hon. Mary Waithira: I am rising on a point of order, because he is a member of PIAC committee and he was supposed to bring a dissenting report but not going against a report that has emanated from the same committee that he is a member of.

Temporary Speaker (Hon. Beth Ngugi): Hon. Kagoni, I will allow you to continue.

Hon. James Kagoni: I wish you remind the hon. member that every member has his own say, but the majority will have their own way, and the minority will have their say. One way is to bring a report, the other is to oppose report itself; that is exactly what I am doing.

I wanted to say this; I don't know why my committee is shying away in surcharging the right person because when that gentleman came, it was true that he didn't have the appointment letter as the accounting officer to that particular board. Further he didn't procure the milk; he actually said the milk coming to those offices, he never paid anyone. He was only a *defacto* kind of a Secretary to that committee.

Therefore, it's important to be firm with the truth, especially when you are defending the voiceless, those that cannot speak for themselves. Because this gentleman further went ahead and appealed to my committee requesting that he be heard. It's true that money was lost, it's true prices were exaggerated and we are surcharging the wrong person. That guy does not handle money, if you saw the receipts that were there; he does not handle the cash.

Let us be very firm and bold and surcharge the right people, who were supposed to be surcharged. Otherwise we will be laying burden to the wrong people; we will be asking them to carry burdens they are not supposed to carry. We would be very biased and unfair to them,

which is wrong. Therefore I want to request this committee, my committee, to either reconsider or see whether we can surcharge the right person and if that is too hard, let us leave it at that and say money was lost, and nobody will be surcharged. And for that reason, I reject this report.

Hon. Bernard Kariuki: I stand to support this report and congratulate the committee for a job well done. This is a committee we have been complaining about, and I am on record calling this committee a log child because, any committee of this Assembly is a child of this Assembly. But I am happy now, the committee has become a good child and when a child does well, you can only congratulate them. It's wise for parents, that when a child asks for bread you don't give them a stone.

This committee has started working very late; we would have expected this committee to work in harmony, in the recent past. But it's worthy to note this committee is now working, we need to support them and support whatever they are doing so that they get motivated, we need lots of report from this committee.

But if they bring every single report here and we kick it out, then we are going to demotivate them. It's a high time we get them working so that by the time they close office, the end of the term of this Assembly, they will have a number of reports approved by this hon. House.

I plead with members, what these members are asking is very simple and we are the ones as a House who approved the report some time back; that the surcharging to take place. It's the same House that approved that decision. It could also bring procedural issues that when a House makes decisions, whether the decision can be repealed by revisiting that same matter unless six months have lapsed. So we even expect that the money should have been surcharged as we speak because that repealing could be non-procedural.

Let us support this committee, we know they have challenges, even looking at the report. The chairman has not signed. They have challenges, and we need to nurture them as our child and whatever they do, we support them because they are doing it for the people of Murang'a and they are the watchdog committee, and whatever they say in terms of investigating public accounts, we can only listen to what they are saying. With those few remarks, I congratulate this committee and especially the mover for a job well done. Thank you Madam Speaker.

Hon. Samuel Wandia: It is a very sad afternoon I have witnessed today, the same members who are seated here, are the same members who adopted the report and it's the same members rejecting the same report. Coming out from an appeal, we have rejected the appeal and they should adopt the report positively so that the county government can recover the money from Mr. Kamami.

Firstly, I think they have misunderstood what we mean by imprest. It's a very simple word, Mr. Kamami accepted that he was the holder of the imprest and he was discharging the same imprest to buy the milk so when one is employed and is holding a post on an acting capacity, like the way Mr. Kamami was holding and he had been given the responsibility of taking care of the imprest, we cannot go short of recovering the money since this is public money.

Even if we now allow somebody to go with Kshs 5, and Kenya has 40 million people, so the country can lose 200 million. As a committee we are saying that the House should stay firm to even send a message to the other imprest holders, since there was proof that he was holding the money for and on behalf of the county government; let us recover the money so that the others may learn that this Assembly has the powers to enforce its decisions. The other member of this committee who is a seldom attender-----

Temporary Speaker (Hon. Beth Ngugi): Order! Order! Hon. Dishon, do not make scathing attacks on an individual.

Hon. Samuel Wandia: I withdraw, that is my submission and I hope the members will pass this motion to have the money recovered.

Hon. Kago Njoroje: I stand to reject this report, due to the appeal of the Secretary. He is saying that he was not an accounting officer until 16th of April 2015, the offence was done on 10th January 2015; there is no relationship between the time when the officer was given the mandate to be the accounting officer and the date when the allegations were committed.

There is no reason to give Mr Kamami a burden yet he was not the accounting officer. The committee is stating that the board was constituted in 2015, it did not have a budget in the period on question since it was relatively new in office, it was being housed by the executive and it could not therefore enter into the procurement contract and could not enter into contract.

I am not allowed by law to enter into a contract between the Assembly and any party. If someone says that we want to accuse Hon. Kago in 2018 because he was a member of the Assembly and there was a contract, I cannot carry the burden.

Similarly, the board was not responsible and this is well stipulated in the appeal, so we cannot hold the Secretary responsible, there was a procurement department.

They are stating that the supplies made to the board were made not on pre-existing procurement contracts and various suppliers; the work of the Secretary was confirming the deliveries. We have bottles of water in this Assembly taken from the stores if our Serjeant-At-Arms work was to confirm that 50 bottles of water were brought, what about the other officers? His work was to confirm the deliveries and he confirmed, he was not to confirm the amount of money to be used on the milk supply.

Therefore, the board was not under control. If my work was to receive, how else am I expected to pay the money? The members are saying that we should be punished, not an innocent party. Even though one of the members is saying that this matter was in the Assembly, it is because they did not convince us on the procedures.

Today, I have the roles that that the person should do and I cannot be convinced otherwise. I want to congratulate the members who did not sign. They knew that trap will not get them when passing a report that does not conform to the Constitution and the duties of that officer.

I wish these members will continue with this trend, by interrogating what is brought before them, looking at it and making their own decisions. Even though they do not write a minority report, the report that will be brought here will be important to the county and the people of Murang'a. I reject it totally. Thank you.

Hon. Jane Ndegwa: I am a member of this committee and actually if you go through the report you will see that I have not signed this report and that's why I am rejecting it.

Mr. Kamami had no appointment letter by then until when the Governance committee, where I am a member asked the Executive to give them the appointment letter and that's the only time we can account that Mr. Kamami became the Accounting Officer for the Public Service Board.

Mr. Kamami is a very young man working under a contract and after 2017 he will go to look for a job elsewhere and if we ruin his career here, he will not get another job outside because of us so I reject this report and once again I reject it. Thank you Madam Speaker.

(Hon. Bernard Kariuki rose on point of order)

Hon. Bernard Kariuki: Madam Speaker we seem to have no quorum in the Assembly.

Temporary Speaker (Hon. Beth Ngugi): Serjeant-At- Arms--- standing order Number 37, we do not have a quorum. Ring the bell for the time until we achieve a quorum.

(Quorum Bell Rung)
(Several members walked in)
(Quorum Attained)

Temporary Speaker (Hon. Beth Ngugi): Then we will proceed with the motion at hand now that we have achieved a quorum. If there is no debate, I will ask the mover to respond.

Hon. Mary Waithira: Thank you Madam Speaker, with a lot of respect I want to thank the Hon. members who raised their concerns towards this report but before I make my final comments, I wanted to correct the Hon. member from Gitugi, that this is not three and half years down the line because that is not when it was tabled because it was tabled on 11th February 2016.

(Honourable Duncan Njuguna rose on a point of order)

Hon. Duncan Njuguna: Madam Speaker, is it in order for the hon. member to mislead this House the Hansard is there and it can be referred to and I said three and a half years since we were elected and joined this Assembly.

Temporary Speaker (Hon. Beth Ngugi): Hon. Mary, confine yourself to the motion at hand.

Hon. Mary Waithira: Thank you Madam Speaker, it seems like this report is bringing some tension but I request through your leave to withdraw the report. Thank you Madam Speaker.

(Hon. James Kagoni rose on a point of order)

Hon. James Kagoni: Madam Speaker, if you check the standing orders very clearly whenever a question has been proposed on any motion then that motion shall not be withdrawn.

Temporary Speaker (Hon. Beth Ngugi): Hon. Kagoni, the Speaker has leave to allow a motion to be withdrawn.

The House is adjourned until tomorrow 2:30 p.m.

The House rose at 3:25p.m.