

**COUNTY GOVERNMENT OF BUNGOMA**

**COUNTY ASSEMBLY OF BUNGOMA**

**COUNTY ASSEMBLY DEBATES**

**THE DAILY HANSARD**

**TUESDAY 18<sup>TH</sup> APRIL, 2023**

*Afternoon Sitting*

## COUNTY ASSEMBLY OF BUNGOMA

### HANSARD OFFICIAL REPORT

TUESDAY 18<sup>TH</sup> APRIL, 2023

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma in the Chair])

#### PRAYER

#### COMMUNICATION FROM THE CHAIR

Honorable Members, today in our Public gallery, we have pupils from Moi Primary School who have come to learn from the County Assembly of Bungoma. They are KCPE candidates of this year.

Today it is just part of the class that is here. Tomorrow at 2:30 p.m. we will be having more pupils of the same class and lastly on Thursday. Today we are having 180 pupils of class eight, out of 502. That school has 502 KCPE candidates for this year. Because of their numbers before us, I will kindly ask all the pupils of Moi Primary to be upstanding. Kindly stand up.

Be seated.

The said pupils are accompanied by the following teachers.

1. Hellen Nabibia
2. Geoffrey Wanyuni
3. Boniface Mbayaki
4. Amos Sitawa
5. Everlyne Ateya.

Honorable Members, at an appropriate time, during our statement hour, I will allow Honorable Members make some few remarks before we proceed and be able to engage our normal business on our Order Paper. Teachers, be seated please.

## PETITION

### JOINT REPORT BY THE COMMITTEE ON JUSTICE, COHESION AND LEGAL AFFAIRS, AND SECTORAL COMMITTEE ON HEALTH ON THE PETITION BY THE KENYA NATIONAL UNION OF NURSES, KENYA NATIONAL UNION OF LABORATORY OFFICERS AND THE KENYA NATIONAL UNION OF CLINICAL OFFICERS

**Hon. Metrine Wilson (Chair, Justice):** Thank you. I stand to read the report of the joint select Committee on Justice, Cohesion and Legal affairs, and Sectorial Committee on Health on the petition by the Kenya National Union of Nurses, Kenya National Union of Laboratory Officers and the Kenya National Union of Clinical Officers.

#### **The Executive Summary**

The Petitions by Kenya National Union of Nurses (KNUN), Kenya National Union of Medical Laboratory Officers (KNUMLO) and Kenya Union of Clinical Officers (KUCO) was tabled on the floor of the House on 28<sup>th</sup> February, 2023 and committed to joint Select Committee on Justice and Health for processing pursuant to the provisions of the Bungoma County Assembly Standing Order Number 206(1) as read together with Standing order number 213(a).

The petitioners were invited and appeared before the Committees on 17<sup>th</sup> March, 2023 presenting both oral and documentary evidence of their cases. The respondents to the Petitions were invited and appeared before the joint Select Committee on 30<sup>th</sup> March, 2023 namely; The County Executive Committee Member (CECM) Health and Sanitation, Chief Officer Health and the County Secretary Bungoma County.

The respondents presented both oral and documentary evidence before the joint Committee; additional documents were required to aid in processing the matter which evidence was partly availed to the joint Committee. In processing the matter, the joint select committee considered evidence from both parties in order to make an informed verdict through its observations and recommendations to this honorable house.

Consequently, the joint select committee has made its observations and recommendations which appear at the tail end of this report.

We have a background that has the Committee Membership and the mandate.

#### **Acknowledgment**

May I take this opportunity to thank the office of the Speaker and Clerk of the County Assembly for their logistical support that made this exercise a success.

I also appreciate the Honorable Members and the secretariat of the joint select Committee for their commitment and for dedicating their time to process the petition on the organizational structure by the Department of Health and Sanitation.

It is therefore my privilege, on behalf of the joint select Committee on Health, Sanitation, Justice, Cohesion and Legal Affairs to present the report to the County Assembly for debate and adoption.

Signed by Hon. George Makari – Chairperson, Health and Sanitation Committee and Hon. Metrine Wilson – Chairperson, Justice, Cohesion and Legal Affairs Committee

**Mr. Speaker:** For guidance purposes, I think you know the petitions. The practice is that you give us the final recommendations and we are done. You will not be calling the seconder of the petition or debate over the same. If you are keen you will be able to look at Standing Order No. 206, 225 and 226. It is very clear on how we bring back the petitions. Go to page 29 and give us the committee recommendations then we will be done.

### **General Observations and Recommendations**

**Hon. Metrine Wilson:** On page 29

#### General Observations

The Joint Select Committee observed as follows:

1. All the three (3) petitions sought to address same issue-non-involvement in the formulation of the organogram and representation in the CHMT.
2. The Department has not formulated Regulations pursuant to Section 48 of the Bungoma County Health Services Act as read together with the Second Schedule to the Act, to operationalize the Act in terms of establishment of divisions and formulation of the organogram.
3. The purported old organogram submitted by the petitioners was not signed or approved by Chief Officer/Cabinet hence could not be relied upon as authentic evidence. Additionally, the proposed new organogram had not been approved by the County Executive Committee (Cabinet) thus it was not a formal document for circulation.
4. The Department failed to prove that stakeholder involvement and public participation was undertaken during the formulation of the new organogram contrary to Article 47 of the Constitution and Section 87(b) of the County Government Act, 2012.
5. In view of the ruling by Judge Korir; in the petition No. 85 Of 2018 in the High Court, the Joint Select Committee observes that Sections 5, (4) (a) and the Third Schedule of the Bungoma County Health Services Act, 2019 which are a replica of Section 19(4) (a) and First Schedule of

the Health Services Act 2017 are unconstitutional since they discriminate against other cadres within the Health Sector.

6. The joint select committee noted that pursuant to the Standing Order 220(f) efforts by the petitioners to have the matter addressed via internal mechanisms bore no fruit. This was attributed to the fact that the petitioners gave demands to be implemented and the respondent (Department of Health and Sanitation) was not necessarily willing to listen to the petitioner.

7. The Bungoma Health Services Act, 2019 section 32(1) establishes the County Health Management Team, and section 32(2) establishes the composition of the Health management team as being; the County director of Health who shall be the chair person, one deputy director, Heads of divisions and the administrative officer of the department who shall be the secretary, there is no restriction on the number of divisions to be created.

### **General Recommendations**

The Joint Select Committee makes the following recommendations:

1. THAT the implementation of the new organizational structure should be halted and due process be followed in the formulation of a compliant organogram. In the meantime, the joint select committee recommends that the status quo obtaining prior to the formulation of the new organogram be maintained.

2. THAT the County Department of Health and Sanitation within thirty (30) days of adoption of this report, to initiate and submit to the County Assembly, amendments of Sections 5, (4) (a) and the Third Schedule of the Bungoma County Health Services Act, 2019 to comply with the High Court ruling in Pharmaceutical Society of Kenya & Another V Attorney General & 3 Others (Petition 85 of 2018) [2021] KEHC 85 (KLR).

3. THAT the Department should expedite the formulation of Regulations to operationalize the Bungoma County Health Services Act, 2019 pursuant to section 48 thereof as read together with paragraph 10 of the second schedule to the Act and submit the same to the County Assembly within sixty (60) days from the adoption of this report.

4. THAT henceforth, the Department MUST ensure stakeholder engagement and public participation in the formulation of the organogram, departmental policies and guidelines, pursuant to the provisions of article 10 (2) a) of the Constitution, sections 87, 88, 89, 91, 94, 95 and 96 of the County Governments Act, 2012 and other relevant legislation.

5. THAT henceforth, the Department of Health and Health Sector Unions should embrace dialogue and make use of internal dispute resolution mechanisms to resolve any emerging issues.

6. THAT since the Divisions created are new offices, the department after adoption of the Regulations, must follow the right procedure in creation and abolishing of offices. Consultations

should be done with the Board to have the offices created before being filled competitively pursuant to provisions of section 59(1) and 60 of the County Government Act, 2012.

7. THAT the recruitment in the offices of heads of divisions, the Sub-County Health management teams and the County Health Management MUST be done in compliance with provisions of Article 27 of the constitution specifically non-discrimination on the basis of race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth and MUST portray the face of Bungoma County. This brings us to the end of the report.

*(Applause)*

**Mr. Speaker:** Honorable Members, the said Petition response complies the Standing Order number 225(ii) and (iii), so the clerk within a period of 14 days should have to follow the same with the petitioners' and the major consumers of this petition for noting those recommendations.

Next item.

## STATEMENTS

### ENCOURAGING MESSAGES TO PUPILS FROM MOI PRIMARY SCHOOL

**Mr. Speaker:** Honorable Members, before we allow in our CECMs for Roads and for Public Administration and ICT, let me allow Honorable Members make some few remarks about our pupils in our Public gallery and equally in the Speakers gallery and their teachers.

**Hon. Jeremiah Kuloba:** Ahsante bwana Spika kwa kunipa fursa hii. Kwanza ningependa kushukuru usimamizi wa Assembly hii kwa kukubali Wanafunzi wa Moi DEB kuhudhuria na kusoma moja ama mawili kutoka katika jumba hili la sheria.

Langu ni kuwahimiza wanafunzi msome kwa bidii kwa sababu uongozi wa kesho unawategemea ninyi. Mkiwa wanafunzi mnaotoka kwa wadi langu, nahitaji mwe na nidhamu hata mtakapokuwa mmefanya mtihani wenu wa darasa la nane, na kujiunga vyule vya upili, muwe na nidhamu na msiwe kama wengine wanaochoma shule na kuletea wazazi hasara.

Pili, nawashukuru kwa sababu mnatoka katika jamii ndogo ndogo. Hii shule yetu ni ya wanafunzi wanaotoka katika Wazazi wadogo wadogo. Nawashukuru mahali ambapo mmefikia na hatujafikia lile la ngoma, huu ndio mwanzo bado. Walimu pia nawaambia kwamba endelea kuwatarishe hawa wanafunzi wafanye mtihani na wapite vizuri. Nafikiri ni hayo tu, ahsante bwana Spika kwa kunipa hiyo fursa.

**Hon. Steven Kaiser:** Ningependa kushukuru Spika kwa kunipa fursa hii ili niweze kuongea machache. Cha kwanza ningependa kushukuru walimu na wanafunzi wa Bungoma DEB kutembelea katika bunge letu. Langu ni kuwatia moyo kwamba mfanye bidi, maisha ya sasa bila

masomo hakuna maisha, kwa hivyo fanyeni bidii katika masomo yenu mkijua ya kwamba masomo ndio itakupa maisha mema ya usoni. Walimu ambao wako hapa mchukue hawa wanafunzi kama watoto wenu na mwape ile nidhamu ambayo inatakikana. Ninawatakiya kila la heri mnapojiandaa katika kufanya mtihani wenu ili muingie katika kidato cha kwanza

**Mr. Speaker:** Thank you, Honourable Kaiser. Honourable Ali Machani,

**Hon. Ali Machani:** Shukran ndugu mwelekezi wa jumba hili. Kwanza nataka nichukue fursa hii nishukuru walimu wetu na wanafunzi hasa watahiniwa wa darasa la nane kwa kuchukua fursa wawe miongoni mwa wale wanaojumuika katika jumba hili. Twafurahia unapowakaribisha wanafunzi ili pia nao waweze kujifunza mambo yanayohusu jimbo lao. Pia kuna maswala nyingi watakozopata watakapozunguka katika maeneo haya.

Pia nimefurahia ndugu yangu ambaye ni mtetezi eneo la Township Mheshimiwa Jeremiah Kuloba ambaye aliweza kuchaguliwa mwaka jana mwezi wa nane kuja kuwakilisha hapa. Kupitia kwa hawa wanafunzi ningependa mfikishe salamu zetu kwa wazazi ambao ni wapiga kura. Pia alianzisha mazungumzo katika bunge hili kwa siku ya leo katika lugha sanifu ya Kiswahili, haimanishi hajaenda shule, mnapokuwa hapa ndani ni vizuri mjue ni lugha ngapi zinatumika; kuna lugha ya ishara, Kiswahili na lugha tuliazima kutoka nchi za mbali.

Wakati wetu ilikuwa nadra sana kupata kujumuika katika jumba la watetezi, ilikuwa ni lazima uende hadi Nairobi na utasafiri kwa gari moshi mda wa siku mbili lakini leo hii, mna fursa kujumuika hapa. Tunawashukuru wale wakubwa wetu wenye vyama mbalimbali waliohusika katika utetezi wa katiba hii ya mwaka wa 2010 ambayo inatuelekeza sisi kama jimbo kufanya mambo yetu kwa msingi ya sheria. Walipigania sisi tupate majimbo na tuwe karibu na utetezi na pesa pia ziwe karibu, hiyo inamaanisha lazima tuwe na watetezi wakakamavu kama ndugu yangu Kuloba na ndugu yetu mwelekezi wa siku ya leo ndugu yetu Emmanuel Situma.

Mnayo haki pia mtete maisha yenu kupitia kwa walimu wenye tajiriba kubwa mlionao wa shule ya msingi ya Moi. Hii ni miongoni mwa shule ambazo zina watoto wengi katika kaunti hii na ni watoto ambao heshima yao imeweza kusikika vitongojini mwa jimbo hili, kwa sababu ya kufanya vizuri na pia kuwa na walimu wenye heshima na uzoefu wa kufundisha kwa mda mrefu. Tungependa mfuate mwelekeo ule ili inapofika wakati wenu pia tujivunie na tuweze kusema kwamba hamkupoteza wakati kuwa kwenye shule.

Zaidi ya hayo nataka nishukuru mwelekezi wetu na mwezangu ambaye alichaguliwa Jeremiah, haikuwa rahisi kupata kura ya mwaka jana na ni heshima kubwa kwa watu wako.

**Hon. Cornelius Makhanu:** Ahsante sana mheshimiwa Spika kwa kunipa hii nafasi nami niweze kuchangia, nashukuru sana walimu wa shule hii kwa kupanga kwamba leo watembelee bunge letu la Bungoma. Hii ni shule moja ambayo imeletea hii kaunti yetu sifa kutokakna na masomo na hata michezo. Vile mwenzangu mheshimiwa Machani amesema ni shule ambayo ina idadi kubwa sana ya wanafunzi, kama vile tumesikia hapa watahiniwa peke yao wa darasa la nane ni

zaidi ya mia tano na shule yote ina watoto zaidi ya elfu nne. Ukiona idadi inakuwa kubwa sana kwa shule ni kwa sababu ya sifa ambayo wako nayo.

Kwa sababu wanafunzi ambao wako katika wadi yangu ya Khalaba wanasoma pale na mimi ni mmoja wa wazazi katika shule hiyo, ninashukuru mheshimiwa Jeremiah kwa sababu juzi tumetembelea hiyo shule na akaweka msingi wa kuchimba maji, kwa hivyo hiyo shule inaenda kupewa maji.

Pia ni shule ya zamani sana ambayo naweza sema ni miongoni mwa shule za kwanza katika kaunti ya Bungoma, ni shule pia ambayo imepewa jina la rais wa apili wa nchi hii, hayati mzee Moi. Kwa hivyo ni shule ambayo tunaienzi, tunawakribisha tena, tumeambiwa kuwa watakuwa wanakuja kwa awamu kwa sababu ni wengi.

**Mr. Speaker:** Thank you, Honourable Cornelius. I will take two more that is Honourable Waiti and Opwora. Then we will go to the issue of CECMs coming before the House for the responses.

**Hon. Alice Kibaba:** Thank you Mr. Speaker for giving me this chance to speak to our pupils of Moi Primary. It is a good school that has been known for performing well over years and the teachers of Moi primary are also committed and the parents of Moi primary are also good. The head teacher Mr. Wanyama who happens to be my neighbor at Tuuti is such a hardworking and God-fearing man.

What I can advise you is that put God first in your studies, listen to your teachers and always do what they tell you. For success, have a personal timetable that will guide you to do personal studies while at home. I finish by saying that always set targets every term; I wish you success in your forthcoming exams.

**Hon. Edwin Opwora:** Thank you Mr. Speaker for giving me this opportunity to talk to our pupils from Moi Primary school. As I was sitting here, I had an opportunity of a nostalgic memory of my days in primary and remember I used to participate in the debate; I happened to be always on the majority side and in life some things come to be true, right now I am speaking from the majority side

**Mr. Speaker:** I hope you are not saying that Hon. Jeremiah was always in the opposition side.

**Hon. Edwin Opwora:** I just want to encourage our pupils that this is their time and in life you need to lay a foundation, this is the time to lay a foundation of your academic and it is only through this foundation that your future will be bright.

If you allow me, I have read a book 'Long Walk to Freedom' by Nelson Mandela and in that book; Mandela says education is the great engine towards development. It is through education that the daughter of a peasant can become a doctor that the son of a mine worker can become the

head of a mine, and a child of a farmer can become a president of a great nation. It is what we make out of what we have not what we are given that separates one person from another.

I believe our pupils also have the power, they come from different backgrounds and I want to encourage them that don't look at where you are coming from, look at where you are going, don't look at what your parents have or what they did not achieve, look at what you are aiming to achieve and the sky is the limit.

**Mr. Speaker:** Thank you, Hon. Opwora. Hon. Waiti,

**Hon. Wafula Waiti:** Thank you, Mr. Speaker. I rise also to congratulate my colleague who is none other than Hon. Kuloba. I take this opportunity to thank the teachers of Moi primary which was known as Common Wealth Primary for those ones who don't know, but the name was changed in 1984 and this is the school where my neighbor seated with me here Hon. Ken went through in his primary education. He is an alumnus of that school. I want to encourage the pupils that when you...

**Mr. Speaker:** Honourable members, there is only one speaker on the floor of the House at a time, the rest are murmurs.

**Hon. Wafula Waiti:** Thank you, Mr. Speaker. Allow me to encourage pupils that when they study well, they will one day sit here where their alumnus is sitting, who is none other than Honourable Ken.

*(Applause)*

I can see Hon. Christine laughing because she is a teacher. A head teacher managing one class of more than 500 pupils is not easy, so I congratulate the teachers but remember the pupils must come out of this place knowing that this Honourable House has the ruling coalition which is led by our Majority leader who is the member representing Tuuti/Marakaru Hon. Nyongesa and we also have the opposition where their host sits...

*(Laughter)*

**Hon. Ali Machani:** Point of order!

**Mr. Speaker:** Honourable Machani under which Standing Order, Hon. Waiti just hold on.

**Hon. Ali Machani:** *(On a Point of Order)* Now that our beautiful girls and boys want to know how the Assembly is moderated, is it in order for the Honourable member not adhering to the changes in Kenyan laws where the opposition was in the past now it is the minority and majority, is it in order?

**Mr. Speaker:** It is very much in order for one simple reason, even at their own level in school, we always have the leader of opposition and leader of the government of the day, so there is

nothing wrong to confirm that Hon. Jeremiah Kuloba is among the opposition leaders, putting the government on toes and equally there is nothing wrong to say Hon. Joseph Nyongesa the leaders of majority in this House which is a fact, so there is nothing wrong.

I am very sure of one thing members, before the pupils come here, they are always given some guidance out there, they are told we have the Speaker, Leader of Minority, Leader of Majority and their Whips, they are learning, now they are seeing it practically that Hon. Jeremiah is a leader of opposition in this government. There is nothing wrong with that, this is a practical learning process.

Hon. Waiti just wind up because we are expecting CECMs here to respond to questions.

**Hon. Wafula Waiti:** Thank you Mr. Speaker for that protection, the pupils must also know because they have been seeing us when we reach there, we bow so they should know that in front of us there is a mace which is the authority of this House and that is why every other time like what the Seargent at Arms is bowing to the authority of the House.

As I wind up, I want to applaud teachers that taking pupils from pre-primary to this level takes time and our teachers sit with our pupils more time than the parents. The pupils are used to habits in school but when it reaches time for exams our parents introduce new things to our learners and at one stage it can lead learners to failing exams. Teacher should tell parents to leave pupils with them and not interfere by introducing some new things to our pupils. Otherwise I applaud the teachers.

**Mr. Speaker:** Thank you, Hon. Wafula Waiti. Honourable members, allow me on behalf of all the Honourable members who didn't speak today and on behalf of the Office of the Speaker wish the candidates the best of luck in their forthcoming KCPE and above all, I always say put God first and you will do well in your examination.

Next item.

*(CECM Roads and Public Works and his team enter the House)*

**Mr. Speaker:** Let us have the CEC for Roads first. Welcome CECM for Roads, Infrastructure and Public Works and he is accompanied by our Chief Officer Finance and Economic Planning.

Honourable members, we do have the CECM before us and I will now have the statement read then allow the CEC to give us a summary, although before that I will have to seek clarity from him vis a vis the statement but let me have the clerk read the statement first.

Honourable members, you may be wondering, Honourable Joseph Nyongesa is holding brief or standing in for the Honourable Jack Wambulwa MCA for Kimaeti ward.

**RESPONSE TO STATEMENT SOUGHT BY HON. JACK WAMBULWA FROM THE  
CECM ROADS, TRANSPORT AND INFRASTRUCTURE AND PUBLIC WORKS IN  
RESPECT TO THE IMPLEMENTATION OF CEF ROADS IN KAIMAET WARD IN  
THE FINANCIAL YEAR 2019/2022, 2020/21 AND 2021/22**

In the response let the CECM respond to the following questions;

1. The names of the roads and its contractors
2. The BQs and the contract sum of the said roads
3. The payment status of these roads
4. The completion certificate and payment of the same roads
5. The measures put in place by the department to have all the roads under CEF programme in the ward be completed within the provided timeframe in the contract agreement.

**Mr. Speaker:** The Chief Officer, before you proceed we want to get your guidance on the response that you have given. The response that you have given covers two financial years but the statement sought for 3 years. It is talking about 2019/2020, 2020/2021 and 2021/2022 but your response is only covering two years. Are you comfortable to proceed that way?

**CECM Roads:** Yes, your honor.

**Mr. Speaker:** Honorable Majority, are you comfortable?

**Hon. Joseph Nyongesa:** Thank you, Mr. Speaker. Before I even answer if I am comfortable or not; allow me say a word for the visitors in the gallery from Moi Primary. I appreciate the pupils and teachers for coming for a learning session. The school is known for posting good performance. My only word is that utilize your time well, because time wasted can never be recovered. Utilize your time to ensure that you keep the mantle burning.

I stand in for Honorable Wambulwa and I'm receipt of the response from the department. As you said, when you stand in, you do so fully. I have been consulting the owner of the statement and I have informed him that the response covers only two financial years and he has given me instructions that the CECM should come up with the entire requested information to be dealt with once and for all. That is the request from the owner of the statement which I support because there is no need for us to handle two financial and soon we handle the remaining financial year. That is the directive from the owner of the statement and the CECM should comply.

**Mr. Speaker:** CECM the challenge we have is that the statement is talking about three financial years and you have only responded on two. He is saying there is no logic you to respond today and tomorrow. We ask you again to come to this House and respond on the remaining financial year.

**CECM Roads:** Thank you, Mr. Speaker. We did not have an allocation for 2019/2020 for Kimaeti Ward and that is why we went ahead and did for the next financial year; 2020-2021 and 2021-2022.

**Mr. Speaker:** Now that being the position that there was no allocation of funds for Kimaeti in the department in the said financial year, it means then that even we send you back; there is no report that you are going to give us? That being the position, you can now proceed and give us what you have for the two financial years, because even if Honorable Wambulwa comes here, it will be the same scenario. He did not allocate funds and cannot purport to have a report basing on the situation. Honorable Majority what is the issue now?

**Hon. Joseph Nyongesa:** The issue is that we are dealing with facts. What shows that there was no allocation? They have all the documentations and they should show here that in 2019/2020 these were allocations for all the wards. If there is a department that has received a lot of allocations is the department of Roads. There is no single MCA who fails to allocate funds in this department.

**Mr. Speaker:** CECM?

**CECM Roads:** Yes, Mr. Speaker. This usually happens like in the last financial year Cheptais did not have any allocation for Roads same to Milima Ward in Tongaren Constituency and can be confirmed by members who are here.

**Mr. Speaker:** The issue is simple he had CEF funds but he might have allocated the funds on ECDE, water and other programmes like health without having any allocation on roads. Go and bring us that record and we will proceed because if you have the records and he is insisting there was an allocation, we will allow you more time to bring a report to show that your department was not given any allocation for Kimaeti for the financial year to be able to clear on this issue.

**Hon. Joseph Nyongesa:** It is also important that you instruct Hon. Wambulwa to come with a list of 2019/2020 CEF projects.

**Mr. Speaker:** Honorable Majority, you are failing in your duties because you said you are fully in charge of what you were given. You said when you stand in for somebody, you do so firmly. It means he did not give you a proper brief over the same. That being the position honorable members, we will indulge the CECM to go and bring a report from his department. Equally, I will ask the Leader of Majority to go and ask Hon. Wambulwa to come with the allocation that he was given. On this floor of the House, we will find one person not giving a true picture of the scenario in Kimaeti Ward. I think that is done.

**Hon. Joseph Nyongesa:** Obligated Speaker.

**Mr. Speaker:** Members, we would want to allow him and if you don't mind members, I want to take this response to 4<sup>th</sup> of May for one simple reason that next week, we will be conducting vetting for Chief Officers.

Again Hon. Wambulwa is in Ad hoc committee where they are now preparing their report. We don't want to ask Hon. Nyongesa to step in for him again next week and say that he is waiting for Hon. Wambulwa to come back and give him a brief.

We will move it to 4<sup>th</sup> of May which will be our last day of sitting before we adjourn for recess. To allow him prepare a report and come back here and we will allocate this statement only on that day and nothing else.

The remaining response Hon. Luseneka is here and he will be answered comfortably. Therefore, the statement by Hon. Jack Wambulwa on roads in Kimaeti for financial years is moved to 4<sup>th</sup> of May at 2:30 p.m. It is good to have our CECMs around. We can now proceed to the next item.

**STATEMENT SOUGHT BY HON. ANTHONY LUSENEKA FROM THE CECM  
ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS IN RESPECT TO  
THE CONSTRUCTION OF LUMORO-LUTASO-NAMIREMBE ROAD**

In his response the CECM should respond to the following questions;

1. What was the contract sum for construction of Lumoro-Lutaso-Namirembe Road under RMLF for financial year 2021/2022
2. What was the scope of works for project i.e. bill of quantities to be attached
3. What is the name of the contractor? Contract signed to be attached
4. What was the contract period? Is the contract still on or lapsed. If the contract is lapsed what steps has the department taken.

**Mr. Speaker:** Allow me now honorable members to confirm that Hon. Luseneka is present in person and nobody is holding brief for him. I think CECM you can go ahead and give us the response. You are not supposed to strain, you can approach the dispatch and speak from this side if you are comfortable standing.

**CECM Roads:** Thank you, Mr. Speaker. With regard to...

**Hon. Ali Machani:** Honorable Speaker, now that we have pupils in this House; the name of the owner of statement has clearly been mentioned and now that the CECM is privileged to speak from where honorable members speak, kindly assist us to know his name. Because a question may arise who is a CECM?

*(Applause)*

**Mr. Speaker:** CECM when you come to respond, you should be able to say your name because we have visitors in the public gallery are wondering that the CECM that was in the House answering questions what was his name and I'm sure even some of my MCAs if asked to give your full names, they will not be able to answer. Kindly introduce yourself formerly, so that visitors in the Public Gallery are able to know you.

**CECM Roads:** Thank you, Honorable Speaker. My name is Chengek Boventure Chemaket the County Executive Committee Member for Roads, Transport, Infrastructure and Public Works.

*(Applause)*

I will proceed and read the response. The department of Roads has received a request made by Honorable Member for Bukembe West Ward on the implementation of Lumoro-Lutaso-Namirembe Road in Bukembe Ward under the RMLF 2021-2022.

### **Project Background**

The project is 9.5 kilometres stretching from Lumoro through Sikichereni to Namirembe Dispensary. The tender no. is RMLF/001/2021/2022. The tender name was put improvement of Lumoro-Sikichereni Road and the contract was awarded to Beteva Enterprises for 9.5 kilometres spot improvement.

The contract sum was Kshs. 9, 072,423.80 and amount paid so far is zero with the same balance of Kshs. 9, 072,423.80. Status of the road is 80% in terms of works done and the contractor is not on site.

However, a variation order of 4<sup>th</sup> of February 2022 reduced the road length by 5 kilometres stretch from Lumoro water point to Sichekereni after it was discovered the Kenya Rural Roads Authority (KeRRA) had already planned to undertake works on that section of Sichekereni-Namirembe Dispensary at a tune of 4.5 kilometres. The department therefore proceeded to award works to Lumoro-Sichekereni stretching 5 kilometres from Sichekereni junction through to Lumoro water point.

On the contract sum of the construction of the said road under RMLF FY 2021-2022; it was awarded at Kshs. 9, 072,423.80.

On issue No. 2 on the works of the project we have the BQS herein attached. As noted in the project summary scope of works in the Bill of Quantities was spot improvement of the road; that included culvert installation, opening or dosing, grading and spot gravelling? Specific quantities for each of the above items is attached in the report.

On issue No. 3 on the name of the contractor and the contract signed to be attached; as indicated in the project summary the name of the contractor is MS. Beteva Enterprises of P.O. BOX 700130100 Eldoret. A copy of the agreement is herein attached as annex 6 and 7.

Issue No. 4 on the contract period; if the contract is still subsisting or it lapsed. If the contract lapsed what steps the department taken.

### **The contract period**

The contractor was to execute works within 90 days period from the date of issuance of orders to commence. As per the attached order to commence instructions dated 21<sup>st</sup> January 2022 and closed on 10<sup>th</sup> May 2022. The contract therefore lapsed on 10<sup>th</sup> May 2022.

**What steps has the department taken**

The department has initiated termination process of which 14 day notice of termination has since been served to the contractor to allow a fresh procurement process for execution of the works.

**Mr. Speaker:** Thank you, CECM. You can take your chair. The owner of the statement will seek for clarification but let us first ask him if he is satisfied or not.

**Hon. Anthony Luseneka:** Thank you, Honorable Speaker. I also want to thank the CECM for the response. There are a few clarifications that I want him to make. First, concerning the quantity because the initial contract was 9.5 kilometres for spot improvement and the contract sum is Kshs. 9 million. It was reduced to 5 kilometres but the amount remained the same. I don't know why you reduced the works that were supposed to be done at the same price. I expected also the price also to reduce. I want a clarification on this.

Secondly, you have given 14 day notice for termination, yet the last time we talked the contract had indicated to you that you give him at least 3 weeks to complete the works but as we speak he is not on site. Are you going to terminate the contract at the expiry of the 14 days or you will extend. I want you to clarify because if you are going to extend time for contractor again, I think you will be doing a disservice to my people.

**Mr. Speaker:** Kindly proceed to clarify. You can even do it from where you are.

**CECM Roads:** Thank you...

**Mr. Speaker:** CECM, you cannot speak while sitting, Honorable members speak while standing and you cannot be exceptional.

**CECM Roads:** With regards to the reduction in quantity or size of the road and why the amount remains the same; when the variation was done, if you notice the surface area was 76,000 cm but when we did the reduction it come to 40,000 cm in terms of surface area but the original BQ had 100mm of gravel depth but the variation was done by 50 to 150mm of gravel. So, if you vary the road by almost 50% of gravel which captures most of the quantities that is where the figure was consumed. That is why you notice on the part of spot gravelling; instead of the original 3.9 kilometer for parch gravel, it reduced to 3.6 kilometres because the road was varied by gravel by almost 50% from 100 to 150mm.

On the second question, on the extension of contract; the contract has lapsed and the contractor is not on site and as far as we are concerned we don't have a binding contract between ourselves and the contractor, and that is the reason we have written a termination notice. It is true we wrote

a default notice 7 which the contractor then responded and said that we give him 3 weeks for them to go back to site. As it stands he has not been there for last one year, therefore, if we give him another extension or allowing for another 3 weeks, how sure are we that they will be able to go back to the site? That is why we have moved ahead to terminate the contract.

Going forward, I would like to inform members that in our contracting, we shall be indicating the form of appendix that when the contract lapses on the date of lapsing, the contract stands terminated because right now we are terminating what already had lapsed.

**Mr. Speaker:** Hon. Luseneka before you come in; CECM assist us understand your mathematics here; the road was 9.5 for spot improvement. Then there was an order for variation reducing the length of the road to 5 kilometres, now you are telling this House after the reduction of the road by 4.5 kilometres and the contract sum of Kshs. 9 million remained to do the same work? Is that what you are explaining to us?

**CECM Roads:** Honorable Speaker that is the true statement. When you calculate most of the quantities, the largest sum goes to gravel, which for the whole road was 76,000 cubic meters. But when it was reduced by 4.5 kilometers, it remained 5 kilometers. And the surface area reduced to 40,000 cubic meters. But the volume did increase. The original volume was that 3192 cubic meters. It increased to 4322 cubic meters, because the size of gravel was increased by 50%. From 100 mm to 150 mm which consumed most of those resources.

**Mr. Speaker:** You know, we are asking in the other area that was meaningful for even just a graveling or just filling up those potholes was to consume some fuel. So what happened? Because people are wondering, I'm not alone in this mathematics that you are telling us.

**CECM Roads:** The largest quantity of a road like this one, which was 3.9 kilometers of patch gravel, was 100 millimeter. So when the road was reduced, they increase the depth, the volume of the gravel to 150 millimeter, which is almost 50% the size of gravel. So, that is where the resources were consumed, instead of being a low of 100. They did a layer, an extra layer of 50 millimeter which came to 150 millimeter.

**Mr. Speaker:** And it consumed everything? No balance at all?

**CECM Roads:** No, there was the money for culverts, drainage works, road formation, grading and opening up

**Mr. Speaker:** Was it all consumed?

**CECM Roads:** No, it was still there. They didn't consume that one.

**Mr. Speaker:** What we are asking is the contract sum. There was a variation of work to be done, okay? But something interesting, the contract to sum remained the same.

**CECM Roads:** Yes, honorable speaker, when the contract was awarded was for Kshs. 9 million. In other words, what they could also have done is continued murrum or gravel of 100mm and then reduced the contract sum, but in their reasoning and the engineers' discussion, they decided to increase the volume of murrum or gravel 150mm. Otherwise the contract sum will have reduced to probably six or 5 million.

**Mr. Speaker:** Honorable members, let's allow Hon. Lusenaka.

**Hon. Anthony Lusenaka:** Honorable Speaker, if I can read from his response. They are saying it was discovered that Kenya Rural Roads Authority had already planned to undertake works on the section from Sichekereni, Namirembe dispensary a distance of 4.5 kilometer. If KeRRA had not done this road, they could have still implemented the contract for this 9 million, a 9 kilometer road. But now we are reducing by 4.5. And the price still remains the same.

**Mr. Speaker:** But I think he has been saying that if the murrum was to be 100mm thickness to be increased to 150mm in a layman's language.

**Hon. Anthony Lusenaka:** Why can't they just maintain same level of murrum?

**Mr. Speaker:** But they have already done it

**Hon. Anthony Lusenaka:** Yes, the road has not been done, so my request is let them do the 9 kilometers as captured in the initial contract

**Mr. Speaker:** But there is already a variation of the same and they are going to do it a fresh.

**Hon. Joseph Nyongesa:** Thank you, Mr. Speaker. I'm on that issue of variation, I don't know if Hon. Lusenaka has seen the variation from KeRRA. And again, the critical issues here, the heading and awarding of words that spot improvement of Lumoro - Sichekireni road, so it is just spot improvement and spot gravelling, But we are looking at the sum of money Kshs 9 million. If Waziri could clarify to us what it means by spot gravelling and the value of money Kshs 9 million. Then at least as the house of rules and the procedures, we could also learn something from them.

**Mr. Speaker:** Honorable CECM

**CECM Roads:** Thank you, Honorable Speaker. We usually do spot graveling on most of the roads, especially areas that are sort of swampy or need some enhancement or there are issues around storm water, so that it can enhance movement on the road. If we decide to do 100% gravel on the road, contracts sum will really go high, and that is why we normally adopt spot improvement just to cover where there are issues on the road, to enable the road become motorable especially on swampy areas

**Hon. Joseph Nyongesa:** So Hon. Lusenaka, just tell us it is Swampy?

**Mr. Speaker:** I think, a new question is being introduced? And you remember I said that basically when you are doing a response here we stick to the issues raised. When we start bringing new ones which are not part of the statements sought...

**Hon. Joseph Nyongesa:** Honorable Speaker, we are just looking at the value and utilization of money. We are here to represent our people and ensure that money is utilized properly.

**Mr. Speaker:** It's okay. So Hon. Lusenaka, before I allow somebody else to make a contribution.

**Hon. Antony Lusenaka:** Honorable Speaker, I don't know if the CEC has gone to that particular road we are talking about, because this road was opened using our own machinery. And the contractor was just supposed to reshape and murrum it. That was the work that was supposed to be done on that road. So this spot improvement, I don't know, where are they going to put murrum and where are they going to skip? Because it is a new road that needs murruming all the way, so I need to be guided.

**Mr. Speaker:** I think Hon. Lusenaka, they going to re-advertise and you can insist on murruming the entire road. Hon. Ipara,

**Hon. Johnstone Ipara:** Thank you, Honorable Speaker. We are speaking about the law of contract. First of all, what was tendered? And immediately we tendered that road, the contractor contracted and quoted the price that he did indicate, based on the bills of quantities that were provided by that time, this was 100 millimeters. And when they did the request for price variation, they were talking about the price variation, and if they didn't talk about price variation, did they also talk about the quantity from 100 millimeter to 150 millimeter?

I have never seen anywhere we may be misled that the variation was attaching two important items, one on the volume. And the second is on the price. This is a price that has been quoted; there is already a breach of contract; because if you vary two things at the same time, it means that what you quoted initially was so new to secure the contract. So in this case, let the CECM be sincere and honest. What informed the variation of the volume from where it is to where it is and it affects the sum amount of the whole contract.

**Mr. Speaker:** Hon. Sudi, I don't have any engineer here if there is one, I'm not aware of his official title

**Hon. Isaiah Sudi:** Honorable Speaker, in the last five I have been in this house, I don't know how special is this Ward that RMLF money can be used to do opening, dosing, murruming and spotting. You see that has never happened?

*(Applause)*

It never happened in any other single ward in this County because the RMLF money is just meant to support the already existing roads for maintenance. Then I'm wondering why it was not even in my Ward?

**Mr. Speaker:** Hon. Sudi, you know the position you held in the last regime

**Hon. Isaiah Sudi:** Because if you look at it already from the beginning, there is already a breach of contract. Because you see the owner of the statements should be contended. He is lucky that the RMLF money can open, do dosing, this is a miracle. But because the CEC is here will tell us why. Why did you choose to do dosing, opening in that particular road alone? Because there was nothing like that in other wards? When I request, I'm told this money is just for maintenance of existing roads. I want the CEC to tell us what prompted the government to do that. What was so urgent on that road?

**Mr. Speaker:** Hon. Nangulu Charles,

**Hon. Nangulu Charles:** Thank you, Mr. Speaker. I know very well before a project of that magnitude is tendered there must be a BQ. And when you do a variation, what I might request is to have the two BQs, the initial BQ that entails the 9.4 kilometers and these other BQ. And also let the CECM roads tell us why change from a BQ of 100 millimeters to 150 millimeters. What would you do have to do that at the middle of the work where you have to change and kindly share the two BQ's to see whether they actually amount to the money that is being mentioned.

**Hon. Wafula Waiti:** Thank you, Mr. Speaker. I have been wondering when a roadwork is supposed to be done, there must be visibility study, and that is why they chose to do spot improvement. Now, the question who advised the changes from the spot to that road gravel and what did they base on. Again was it for the benefit of the interest of the public, who measured the gravel depth to ensure that it has been done to the specifications.

**Mr. Speaker:** I will have Hon. Ken then Orize then I will have the CECM to respond, where it is not satisfactory we will allow him to get more time as we go to recess so that he can go and bring more feedback on the same. Hon. Ken,

**Hon. Ken Wanyama:** Thank you. Mr. Speaker. I want to dwell on the variation that the CEC saying they reduced from 9.5 kilometers to five kilometers. Now the 4.5 kilometers that was hived off also had other components. I'm sure we also had culverts. The CEC is only concentrating on the issue of gravel, where did the funds for culverts go? So for him to properly respond to this query like Hon. Nangulu mentioned, we need very clear BQs to show where funds were allocated to be able to compare the two.

**Hon. Orize Kundu:** Asante sana mwelekezi. Kulingana na vile Mheshimiwa *Minority Leader*, hiyo barabara ilikuwa imewekwa viraka na hiyo ilikuwa makubaliano kama kiongozi wa hiyo *area* alijua wameweka viraka kwa hiyo eneo. Lakini nyinyi mumeamua kubadilisha kivyenu

bila kuhisisha kiongozi wa hiyo eneo kujua kitu gani kinaendelea kwa hiyo barabara. hiyo ndio sababu maswali mengi imekuja kulingana na hiyo barabara. Sasa bwana waziri utuambie vile ulikuwa umeamua kubalisha hiyo Barabara...

**Mr. Speaker:** Yes Hon. Joseph.

**Hon. Joseph Nyongesa :** (*on point of information*) Asante Bwana Spika, naomba Mheshimiwa anayeongea atuambie viraka ni vya nini. Unajua wengi tumesikiza na hatujui ni viraka vya nguo au ni vya nini?

**Hon. Orize Kundu:** Viraka vya Barabara.

*Laughter*

Bwana Waziri ningeomba kwa Maaana maswali yamekuja kutoka kwa waheshimiwa wengi sio Minority Leader amesema hayo maneno. Kuna Barabara nyinyi kama wizara mnafanya mambo peke yenu bila kuhusisha mwakilishi wa Wadi. Kama Mngesusisha Mwakilishi wa Wadi na kumuelezea mnayofanya kwa hiyo Barabara, maswali hayengekuwa. Waziri umesema Barabara imepunguzwa na pesa ni ileile na Barabara imepunguzwa, na ningeomba utuambie pesa ya barabara ni ngapi ya culverts ni ngapi? na vile umepunguza utuelekeze katika jumba hili tujue...

**Mr. Speaker:** Honorable Members for guidance lets avoid repetition; When Hon. Nangulu has spoken about the BQ's specifications of both, is what you're talking about. So let's avoid repetition please.

**Hon. Orize Kundu:** Asante sana mwelekezi. Mimi ningeomba Waziri kwa sababu uko hapa mbele yetu. Wakati mwingine ukitaka kufanya marekebisho kwa barabara yeyote ama kwa mipango zingine zozote za Barabara tafadhali husisha mwakilishi wa eneo hilo ili mkubaliane vile itakuwa

**Mr. Speaker:** Honorable Members, if we have some issues raised by the Honorable members here, if they can't be answered by the CEC directly now, I think we'll have to allow him to have the both BQ's available specifications of the stretch of 4.5 Kilometer. How many culverts, and how much was the consumption. So members if you don't mind, we can be able to allow the CEC be able to go and prepare and give us a feedback when he comes before us next. Are we together members? Because those issues we are raising, especially the contractual sum and the extra cost on top, so that we're able to be explained. I was wondering the CEC if the road was 100mm, it was enhanced to 150. Were the measurements taken, confirm it is 150 or just by virtue of looking at the road you say now it is 150. You are done and you go. Thank you. Members allow me to release the CEC so that we... or you want to answer some of them CEC?

**CECM Roads:** Yes, Mr. Speaker.

**Mr. Speaker:** Please you do so, and then we leave out the area you have left out. Please proceed.

**CECM Roads:** Thank you, Honorable Speaker. On the issue of gravel; if you look at the original BQ, which I will be able to share, it was Kshs 3.8 million, which was 100mm. But after the revision it came to Ksh5.1 million, because we haven't paid, I want to confirm that the gravel has not been laid. So, we don't have the results for the measurement. Until when it is done then that is when we can go and measure with our materials department to determine if it was indeed laid at 150mm.

In the question of Hon. Sudi; on why dosing was done on a road that was supposed to be done maintenance; from the year 2020 going forward, RMLF was no longer a conditional grant, So it allowed us to do other works apart from maintenance of roads and that is why dosing was done in Bukembe West.

On the question...

**Mr. Speaker:** The only thing they may be asking is why Bukembe West not South Bukusu or Maeni or Kimilili or Tuuti Marakaru, There's nothing wrong with that, just clarification. Don't be cheated Hon. Lusenaka. There's nothing wrong. We are learning.

**CECM Roads:** I may not have a conclusive answer to that question

**Mr. Speaker:** Proceed please.

**CECM Roads:** Thank you. When it comes to the question from Honorable Nangulu; we shall provide the two BQs, so that you can be able to do the check on the issues around the variation.

There was a question by Honorable Orize on issue around why we did not consult the Member of County Assembly, that one equally I don't have a conclusive answer on why it was not done accordingly.

On the question around other road works that were there, especially culverts, the culverts reduced from 72 meters to 48 meters, a reduction of 24 meters. But if you notice, the gravel amount really increased, so part of the monies that were supposed to do the culverts went into went into graveling.

**Mr. Speaker:** So, for the remaining questions we will be able to extract the HANSARD on the questions raised by Honourable members, but not yet clarified, that we will share with you. When you come back on 4<sup>th</sup> of May 2023, you be able to clarify.

Honourable members, we appreciate the response from the department. We are very friendly and I think going forward there is nothing for you not to come around to clarify these issues raised. We appreciate youR coming. Have a good evening CECM and the people from your department.

*(CECM Roads and his team leave the House)*

**Mr. Speaker:** Honourable members, we are expecting a response from the CEC Public Administration and ICT to a statement sought by Hon. Antony Lusenaka. We are expecting the CEC to come in.

*(CECM Public Administration and ICT takes the seat)*

Honourable members, before us is our CEC for Public Administration and ICT Benedict Emachar. He has come to respond to the statement sought by Hon. Antony Lusenaka, Honourable MCA for Bukembe West on the Construction of Bukembe ward offices. Allow me ask the table clerks to re-read the statement then allow the CEC to respond then confirm from the owner of the statement if it is satisfactory or not.

Statement sought by Hon. Antony Lusenaka from the CECM for Public Administration and ICT in respect to the construction of ward offices in Bukembe West Ward.

In the response, let the CECM respond to the following questions;

1. What was the contract sum for construction of ward offices in Bukembe West Ward?
2. What is the name of the contractor? Attach the signed contract.
3. How much has been paid so far to the contractor of the above mentioned project
4. What were the recommendations of inspection and acceptance committee if the project was completed?
5. If the project was completed, was it handed over to the County Government of Bungoma?
6. If the said project was not handed over to the County Government, what measures has the department undertaken to take over the project?

**Mr. Speaker:** Yes CECM, you are now allowed to proceed and give your response!

**CECM Public Administration:** Thank you, Honourable Speaker.

**Mr. Speaker:** CECM, just to remind you, you were before us some two weeks ago, we appreciate your response but as a practice in this House, even Honourable members speak while standing. I kindly request you that basically as you give us your response, be standing.

**CECM Public Administration:** Thank you, Mr. Speaker.

**Mr. Speaker:** You can use the dispatch; you are free!

**CECM Public Administration:** Thank you, Mr. Speaker Sir. My response regarding the construction of Bukembe Ward office is as follows;

## **Background**

1. The contract for the construction of Bukembe West ward office was signed on 29<sup>th</sup> May 2015. I have attached a copy of the contract that is reference number 1.

2. The Land plot number 8 for the construction of the office was handed over to the contractor after a public participation exercise that was done on 11<sup>th</sup> June, 2016.

From the minutes of the meeting which I have attached as reference number 2, there was a police post situated on the plot. One of the resolutions of the meeting was that once the office block is completed, the police post should be moved elsewhere.

3. In the meeting of 11<sup>th</sup> June, 2016, the following persons were in attendance;

1. Residents on Ndengelwa numbering 103 who signed the attendance register indicating the villages of origin, I.D numbers and telephone contacts.

2. The local leaders then who were in attendance among others were MCA then Hon. Julius Barasa W.

3. In attendance was also area assistant Chief Mr. Bernard M. Manyifwa of telephone number 0724 131569 and I.D number 7970671.

4. Also there was an area Chief then Mr. Fredrick Wanyonyi Namutembi of telephone number 0721737334, ID number 8415291011763 235 and I.D number 8785177. In attendance was also area Mukasa Mr. David Juma Makara of telephone number 072066154 and ID number 6624477.

5. In attendance was also Ward administrator Mrs Rose O. Mutoro of telephone number 0725643529. From the records, we can deduce that the dispute on the land ownership started way back around the month of April 2016. I have attached a copy of a letter dated 5<sup>th</sup> April 2016 reference number 3 in which the Kanduyi Sub county Administrator the late Humphrey Mukania declined to go and record a statement to the police citing issues of protocol.

From the records also, if you refer to a letter dated 13<sup>th</sup> April, 2012 reference number 4 the County Council of Bungoma then had allocated plot number 8 to the OCPD Bungoma South for purposes of construction of a police post. Nonetheless the contractor proceeded with the project.

The police occupied the building before its completion and have hence hindered the County Government in occupying the building and have also denied the contractor to complete the building. There has been a lot of discussion between the County Government and the office of the DCI over this matter. From the records available, this matter has been a subject of environmental court case number 38 of 2016.

I have attached the reference number 5 in which the Chief Officer Lands, Urban and Physical planning advanced an out of court settlement. We are informed that such efforts have never born fruits as the DCI has always been referring the matter to his headquarter in Nairobi.

To specifically address the issues raised by the Honourable member of the County Assembly of Bukembe West Ward Hon. Antony Lusenaka, our response is as follows;

**Question 1**

What was the contract sum for the construction of the ward offices?

Our answer is, the contract sum was Kshs 7,361,120. We have attached reference number 1.

**Question 2**

What was the name of the contractor?

Our answer is, the name of the contractor was Ms. Felt ego group limited of P.O box 64 -50200 Bungoma

**Question 3**

How much has been paid so far to the contractor?

Our answer is the contractor has been paid a total of 6,827,282 and the breakdown is as follows.

On 14<sup>th</sup> January, 2016 via payment voucher number 2050 we paid 3,360,172. On 8<sup>th</sup> June, 2016 via voucher number 53 we paid 2,933,942.

On 30<sup>th</sup> January, 2016 via payment voucher 117 we paid 533,168. In total we paid 6,827,282 leaving a balance of 3,533,828 as unpaid.`

**Question 4**

What were the recommendations of the inspection and acceptance committee if the project was completed?

Our answer is that the project is not completed .It is 90% complete and has not been handed over to the County Government.

**Question 5**

If the project was completed, was it handed over to the County Government of Bungoma?

Our answer is that the project has not been handed over to the County Government of Bungoma.

**Question 6**

If the said project was not handed over to the County Government, what measures has the department undertaken to take over the project?

Our answer is that in the past, the County Government made efforts to possess the project but the police have been reluctant to handover the project so the county Government decided to escalate the issue to the intergovernmental committee of the Council of Governors who promised to attend to it. In fact they will be visiting our County on 27<sup>th</sup> and 28<sup>th</sup> of April 2023. You can refer to our letter reference number 6.

They will be visiting over other matters but we shall also raise the matter of Ndengelwa Ward office with a view to getting an amicable settlement.

That is the end of my statement.

**Mr. Speaker:** Thank you, our CEC. A member was asking the name. I spoke from the onset, he is called Benedict Emachar, he can be able to take a seat then allow Hon. Lusenaka.

**Hon. Antony Lusenaka:** Thank you, Honourable Speaker. First, I want to appreciate the responses given by the CEC. I think he is one of the serious CEC's we have in this Government.

*(Applause)*

He does not know how to beat around the bush. He gives exact responses as required. May be I may take him to the last paragraph of his response, in fact I can read; In fact they will be visiting our County on 27<sup>th</sup> and 28<sup>th</sup> April, 2023 over other matters and we shall also raise the matter of Ndengelwa ward office with a view to getting an amicable settlement.

You have to inform them in writing before they come so that they have it on record other than just mentioning it in your meeting as an afterthought.

The second one, in 2017 after the elections I went to that office and we had a local arrangement with the police that we share the offices but the first place they took me to the armory.

*(Laughter)*

So I got scared and moved out of that office and from that time up to now, I have never stepped there.

What I want to know is that is this project still under the contractor or the police because from your response, you are saying that you have not yet taken over the project and it is not yet complete so I wanted to know whether it is still under the contractor or the police in case of anything happening to that project.

**Mr. Speaker:** I think Hon. Lusenaka, you have the response in totality but I think as a lawyer and the sitting area MCA, you must find away on this thing because from what I am seeing here, you put up an office in your ward on the police department land. The land belongs to the police given by one Julius and the money is yours. I think you must find a way because they are saying Zechariah gave the land to the police for construction of a police post.

Look at your last annexure; they are saying intergovernmental relations technical committee is going to be around. The last letter is in your documents. Find a way because you may find a solution there, because the way things are the building is yours but the land is for police.

**Hon. Antony Lusenaka:** In fact Honourable Speaker, when we insisted they said we can demolish the building and go with it. May be our CEC may look for another alternative if it means buying for them a piece of land for compensation. We are supposed to explore those options.

**Hon. Joseph. Nyongesa:** Thank you, Mr. Speaker. Allow me also appreciate our CECM in charge of Public Administration. Actually he is doing what is right and if other CECs could emulate his way of working at least we could fill the gaps that were left by the last government which really humiliated this Assembly.

Lastly, as they inform the visitors who are coming, also inform the police that we are going to handle it and I am happy because when this project started, the CECM then was the Economic Advisor, so we are happy because he knows the history and he can handle it.

**Mr. Speaker:** Thank you. I am having Hon. Sudi!

**Hon. Isaiah Sudi:** Honourable Speaker, I also want to appreciate the CECM before us. He has really explained himself very well, exhausted the questionnaire but I want to request that this issue as you had just mentioned, needs the intervention of the Governor to speak with the County Commissioner, so that they see how they can sort it out, because the building is ours and the land is for the police.

The owner of the land has more rights than the one who constructed a building on land that does not belong to him/her. We need to be very lenient and approach the County Commissioner through the top leadership, so that as a County, we buy land for the police post so that the people of Bukembe West can benefit from that office. As it is because this County has already lost a very important machine because of this land issue the wrangles between the National Government and the County Government. When CT scan machine contractor was brought in Bungoma County, he brought the material but lacked where to construct a house which could house the CT scan and we lost it.

As a County, we are losing an office that could easily serve our people. I want to request the CECM that in your cabinet meeting with the Governor, share it out and see how you can come out and take issue so that we all share the spoils and settle this issue once and for all.

The same issue is coming in my ward because the same Government, I am told yesterday they handed over County Government land to National Government to put a project in my Ward without public participation or involving the local leaders. You see it is also going to fail. As a

County, let us do things in the right way and observe the law and involve others. Nobody on this earth has a monopoly of ideas.

**Mr. Speaker:** Thank you, Hon. Ipara!

**Hon. Johnston Ipara:** Asante sana, Bwana Spika. Pia mimi niweze kuchukua wakati huu kumpongeza waziri wetu kwa kazi nzuri na kila wakati akija hapa Assembly ameweza kupeana taarifa ambayo inaridhisha. Nasema pongezi na usikubali hapo kwamba umepongezwa sasa uanze kulegeza kamba. Jambo tunaloliongelea wale wako pale ni maafisa wa usalama na mi huamini ya kwamba hata hapa kwa Bunge tunakaa kwa sababu ya watumishi wetu ambao wako hapa ndani kudumisha usalama wetu, na ukienda katika soko letu la Bukembe utaona kwamba mambo ya biashara na matumaini ile watu wa Bukembe wako nayo iko juu sana kwa sababu usalama iko karibu na hao.

Ndugu yangu mheshimiwa Luseneka siku ya leo, hata yeye mwenyewe hao maafisa wakiondolewa hapo, naamini kuwa atakuwa mmoja wa wale watakaokuwa mbele kwa kusema usalama wa Bukembe umedorora. Mimi ningeomba hivi, kwa kuwa nyumba ile tumejenga na pesa za kaunti, tungeomba mwakilishi wa Bunge kwa sababu ni jukumu lake kuhakikisha kuwa usalama uko kwa watu wake, Kama anaweza kutulipa pesa zile tumetumia ili tuweze kupata shamba lingine, na pia kama atakubali ajenge nyumba zingine ambazo tutawahamishia maafisa wa polisi na usalama wetu utakua umebaki palepale.

Jirani yangu mmoja anaitwa mheshimiwa Timothy sikati kwa wiki moja kumekuweko na utovu wa usalama. Leo asubuhi nikipita jirani yangu mmoja amesema duka lake la biashara limevunjwa kwa sababu maaskari walio karibu na Ndalw wako Kiminini; lakini kama wangukuwa hapo sokoni nafikiri wanguzuia uvunjwaji wa hilo jumba lake la biashara. Kwa hivyo ningeomba kama vile waziri alivyosema tuone vyema kumuita mbunge wetu wa sehemu hii, tukae chini, tuongee na yeye tuone ni vipi tutamaliza mambo haya, kwa sababu usalama unahitaji ofisi ya mwakilishi, na ofisi ya mwakilishi inahitaji usalama pia. Je ni gani inaweza fanya ingine ibaki? Nafikiri usalama unaeza fanya mwakilishi awe na raha ya kukaa kwenye nyumba hiyo.

**Mr. Speaker:** Thank you, Hon. Ipara. Yes, Hon. Waiti.

**Hon. Waiti Wafula:** Thank you, Mr. Speaker. I don't know why Hon. Ipara is within my mind.

**Mr. Speaker:** What do you mean?

*(Laughter)*

**Hon. Waiti Wafula:** Mr. Speaker, he has just shared what I had but just to elaborate.

**Mr. Speaker:** Or he was able to oversee the *mwakenya* you were preparing.

**Hon. Waiti Wafula:** Mr. Speaker, when you look at the shared functions under devolution between the National government and the County government, the National government where the armour should be, is under the national Member of Parliament under CDF because it states out very clearly that the function of CDF majorly is Administration and Education among other things. Therefore; when the CEC will be exploring ways on how to make Hon. Luseneka happy, should contact the National government through the Member of Parliament to compensate if need be, but if there is still land within that jurisdiction, let him use the CDF to construct the same building to allow Hon. Luseneka to benefit from the County government services.

Otherwise, what had been shared out by my colleague who happens to protect the department where he has been working previously?

**Mr. Speaker:** Yes, Hon. Makhanu.

**Hon. Cornelius Makhanu:** Thank you Mr. Speaker for this time also to congratulate our CEC; but let us also remember as we applaud and congratulate the one who serves us food, we should also not forget to congratulate those who prepared that food. I mean, we should also congratulate the Chief Officer who is the accounting officer and their team. I applaud them.

**Mr. Speaker:** Honorable members, allow me release our CEC for Public Administration and ICT. First and foremost, thank you for honoring our invitation to come and respond to the statements raised by Hon. Anthony Luseneka; and I think it is well done, we appreciate. We have released you unconditionally, so that you are able to leave before we adjourn our sitting.

*(CECM Public Administration and ICT leave the house)*

*(Applause)*

Next item?

Honorable members, under item number eight, there is no motion.

At this juncture, we will adjourn our sitting today; resume tomorrow being Wednesday 19<sup>th</sup> of April, 2023 in our 9:30 a.m.

*(House Adjourns)*