

**COUNTY GOVERNMENT OF BUNGOMA**

**COUNTY ASSEMBLY OF BUNGOMA**

**COUNTY ASSEMBLY DEBATES**

**THE DAILY HANSARD**

**TUESDAY, 2<sup>ND</sup> JULY, 2024**

**Afternoon Sitting**

**Third County Assembly**

**Third Session**

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# COUNTY ASSEMBLY OF BUNGOMA

## THE HANSARD- OFFICIAL REPORT

**TUESDAY, 2<sup>ND</sup> JULY, 2024**

The House met at the County Assembly Chamber at 2:30 p.m.

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

### **PRAYER**

### **PAPERS**

1. REPORT BY THE SECTORIAL COMMITTEE ON HEALTH SERVICES ON THE MANAGEMENT OF OWN GENERATED REVENUE IN HEALTH FACILITIES IN THE COUNTY

*Paper laid by Hon. George Makari*

**Mr. Speaker:** Honourable Members, the report on the management of own generated revenue in health facilities in the County by the Committee of Health Services is now hereby tabled and formally becomes the property of the House.

2. REPORT FROM THE OFFICE OF THE AUDITOR GENERAL ON THE BUNGOMA MUNICIPALITY FOR THE YEAR ENDED 13<sup>TH</sup> JUNE, 2023

*Paper laid by the Leader of Majority (Hon. Joseph Nyongesa)*

**Mr. Speaker:** Honourable Members, the report from the Office of the Auditor General on the Bungoma Municipality for the year ended 13<sup>th</sup> June, 2023 is hereby tabled, and I proceed to commit the same to the Committee of Public Accounts for processing and reporting back to the House accordingly.

3. THE NZOWASCO DECLUSTERING TASK FORCE REPORT

*Paper laid by the Leader of Majority (Hon. Joseph Nyongesa)*

**Mr. Speaker:** Honourable Members, the report from the Department of Water, Natural Resources, Environment, Tourism and Climate Change is hereby tabled, and I proceed to commit the same report to the Committee of Tourism, Water, Natural Resources, for processing and reporting back to the House accordingly.

## NOTICES OF MOTION

1. REPORT BY THE SECTORAL COMMITTEE ON HEALTH SERVICES ON THE MANAGEMENT OF OWN GENERATED REVENUE IN HEALTH FACILITIES IN THE COUNTY

**Mr. Speaker:** Hon. Makari, you proceed and issue a notice accordingly.

**Hon. George Makari:** Hon. Speaker, I rise to give a Notice of Motion that this House adopts the report by the Sectoral Committee on Health Services on the management of own generated revenue in health facilities in the County in respect to the Department of Health and Sanitation.

**Mr. Speaker:** Honourable Members, a Notice of Motion having been duly issued by the sector Committee on Health Services in respect to the Department of Health on the management of own generated revenue in health facilities in the County, I hereby direct the Clerks- at- the- Table to share this report with the MCAs. The same will be coming up as a motion in the course of the week, or once scheduled.

## STATEMENT

1. A STATEMENT INFORMING THE COUNTY ASSEMBLY OF THE WEEKLY BUSINESS

**Mr. Speaker:** Hon. Ipara you proceed and share the tentative weekly program.

**Hon. Johnston Ipara:** Thank you Hon. Speaker. Let me have the privilege to share the weekly program of Business of the County Assembly for the week commencing Tuesday, 2<sup>nd</sup> of July to Thursday, 4<sup>th</sup> of July, 2024.

**Tuesday, 2<sup>nd</sup> of July, 2024 at 2:30 p.m.:**

Statement No. 17 of 2024; A Member of the House Business Committee pursuant to the provisions of Standing Order No. 47 (2) (a) issues a statement informing the County Assembly of the weekly Business coming before the House from Tuesday, 2<sup>nd</sup> to Thursday, 4<sup>th</sup> July, 2024.

**Wednesday 3<sup>rd</sup> July, 2024 at 9:30 a.m.:**

### Papers

I. Report by the Sectoral Committee on Lands, Urban, Physical Planning and Housing on the local Physical and land use development plans in respect to the Department of Lands, Urban Physical Planning, Housing, and Municipalities. This will be done by the Chair, sectoral committee on Lands.

II. Report by the Bungoma Civil Society Forum on the citizen-led survey on own source revenue in the Bungoma County, 2024; to be done by the Leader of the Majority Party.

## **Notices of Motion**

That this House adopts the report by the Sectoral Committee on Lands, Urban, Fiscal Planning, and Housing on the local physical and land use development plans in respect to the Department of Lands, Urban, Physical Planning, Housing, and Municipalities. This will be done by the chairperson of the Sectoral committee on Lands.

## **Statements**

It is notified that Pursuant to Standing Order number, Standing Order No. 55, the County Executive Committee Member for Tourism, Water, Environment, and Natural Resources will respond to a statement on Tuesday afternoon, June 4<sup>th</sup>, 2024 to a statement raised by the Member of Tongaren Ward, Hon. Johnston Ipara.

## **Motion**

A report by the Sectoral Committee on Trade, Energy, and Industrialization on the fourth quarter financial statement for the period ended 30<sup>th</sup> June, 2023.

**On Wednesday, 3rd July, 2024 at 2.30 p.m.:**

## **Papers**

I. A report by the Sectoral Committee on Gender, Culture, and Social Welfare on the first and second quarter financial statements for the financial year 2023/2024. It will be done by the Chairperson of the Sectoral Committee.

II. A report by the Sectoral Committee on Finance and Economic Planning on the first and second quarter financial statements for the financial year 2023/2024. It will be done by the Chair of the Sectoral Committee on Finance and Economic Planning.

## **Notices of Motion**

I. That this House adopts a report by the Sectoral Committee on Gender, Culture, and Social Welfare on the first and second quarter financial statements for the financial year 2023/2024. The Chair will do it.

II. That this House adopts a report by the Sectoral Committee on Finance and Economic Planning on the first and second quarter financial statements for the financial year 2023/2024. It will be moved by the chairperson.

## **Questions and statements**

It is notified that person to Standing Order No. 55, the following County Executive Committee Members will respond on statements on Wednesday afternoon, 3<sup>rd</sup> July, 2024.

I. County Executive Committee Member for Education and Vocational Training on a question raised by the Member for Tongaren Ward, Hon. Johnstone Okasida IPara, MCA.

II. County Executive Committee Member for Finance and Economic Planning will respond to a question raised by the Member for Tongaren Ward, Hon. Johnston Okasida Ipara MCA.

### **Motion**

A report by the Sectoral Committee on Finance and Economic Planning on the County Revenue Fund quarterly report and financial statements for the period ended December 31<sup>st</sup>, 2023.

**On Thursday, 4<sup>th</sup> July, 2024 at 2:30 p.m.:**

### **Papers**

1. A report by the Sectoral Committee on Trade, Energy and Industrialization on the half year financial statements for the period ended December 31<sup>st</sup> 2023. It will be done by the chairperson of the Sectoral Committee.
2. A report by the Sectoral Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development on the half year financial statement for the period ended December 31<sup>st</sup>, 2023 in respect to the Department of Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development. It will be done by the chairperson.

### **Notice of motion**

I. That this House adopts the report by the Sectoral Committee on Trade, Energy and Industrialization on the half year financial statement for the period ended December 31<sup>st</sup>, 2023. It will be done by the chairperson.

II. That this House adopts the report by the Sectoral Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development on the half year financial statement for the period ended December 31<sup>st</sup>, 2023 in respect to the Department of Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development. This will be done by the chairperson of the Sectoral Committee.

### **Question and Statements**

A member of the House Business Committee Pursuant to the provisions of the Standing Order No. 47 (2) (a) will inform the County Assembly of the weekly business coming before the House from Tuesday, 9<sup>th</sup> July to Thursday, 11<sup>th</sup> July, 2024.

### **Motion**

A report by the Sectoral Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development on Agricultural Inputs and Services Support Guidelines, 2023 and the Bungoma Agricultural Land Lease Guidelines, 2023. Hon. Speaker, with your permission, I submit.

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

Honorable Members, that is the tentative Order Paper for today, 2<sup>nd</sup> of July, 2024, 3<sup>rd</sup> of July, 2024, and the 4<sup>th</sup> of July, 2024 accordingly. We go to the next item on the Order Paper.

## MOTION

### 1. REPORT ON THE STATUS OF ROAD PROJECTS IMPLEMENTED UNDER DISASTER MANAGEMENT EMERGENCY FUND

**Mr. Speaker:** Hon. Simotwo, you have the honor of moving the Committee report before the House, please. You proceed.

**Hon. Frankline Simotwo:** Thank you, Mr. Speaker. I move this report by the Committee on Roads, Transport, Infrastructure and Public Works on the status of road projects implemented under Disaster Management Emergency Fund, 2020/2021 and 2021/2022.

The mandate is provided for under Standing Order No. 217 (5).

### Committee Membership

The committee as currently constituted is as follows;

1. Hon. Franklin Simotwo	Chairperson,
2. Hon. Polycarp Kimeta	Vice Chairperson,
3. Hon. Stephen Kaiser	Member,
4. Hon. Jerusa Aleu	Member,
5. Hon. Meshack Simiyu	Member,
6. Hon. Hentry Nyongesa	Member,
7. Hon. Johnston Ipara	Member,
8. Hon. Everton Nganga	Member,
9. Hon. Godfrey Mukhwana	Member,
10. Hon. Job Mukoyandali	Member
11. Hon. Ali Machani	Member,
12. Hon. Charles Nangulu	Member,
13. Hon. Evelyn Mutiembu	Member,
14. Hon. Idd Owongo	Member,
15. Hon. Violet Makhanu	Member.

The Committee is grateful to your office and the office of the Clerk of the County Assembly of Bungoma for the support it received while discharging its mandate. I also appreciate the Chief Officer of Finance and Economic Planning for the timely submission of the necessary documents

that were used in the production of this report. Lastly, I would like to thank the Committee members and the Secretariat who worked tirelessly to ensure successful production of this report.

Honourable Speaker, I wish to confirm that the observations and recommendations in this report were unanimous. It is now my pleasure, duty and privilege on behalf of members of the Roads, Infrastructure, Transport and Public Works Committee to present the report to this Honourable House for Adoption.

It is signed by the Chair.

## **Committee Findings from the Submitted Documents and Field Visits**

### **Introduction**

A Disaster Management Emergency Fund in counties typically refers to a financial reserve set aside by local government authorities to respond to and manage emergencies and disasters within their jurisdiction.

This Fund is crucial in ensuring a prompt and effective response to unforeseen events that may cause significant harm to communities, infrastructure and the environment.

In the FY 2020/2021 and FY 2021/2022, Kshs70, 000,000 and Kshs47, 000,000 were allocated respectively under the Fund. A total of five (5) box culverts were funded by Bungoma Disaster Emergency Fund as follows;

1. Siuna- Kimalewa Standard twin box culvert
2. Kitingia-Sihilila box culvert
3. Wamoyo box culvert
4. Tuuti- Marakaru box culvert in West Nalondo Ward
5. Rehabilitation of C33 Cereals Board to River Khalaba Bridge in Khalaba ward

### **Findings**

#### **2.1 Siuna- Kimalewa standard twin box culvert**

The proposed construction of the Siuna-Kimalewa standard twin box culvert is located between Kibingei Ward and Mukuyuni Ward along River Kibisi in the boarder of Kabuchai Sub-county and Kimilili Sub-county.

The contract was awarded to M/s Trinity Gallagher Enterprises Limited on 7<sup>th</sup> April, 2020 under tender number BGM/CNTY/GVN/EF/RT/003/2019-2020 with a contract sum of Kshs13, 845,876.

The scope of the contract was to undertake the following:

- Site clearance and demolitions which included excavation, removal and disposal of existing structures.
- Top soil stripping and demolition

- Excavation and filling for structures
- Backfilling and provide haul as necessary.
- Excavations of river training and new water courses
- Stone pitching 200mm thick including grouting to aprons upstream and downstream of bridges and culverts.
- Providing 50mm thick concrete class 15/20 to exposed surfaces to receive the gabions.
- Rip-rap protection work
- Backfill below structures
- Passage of traffic
- Bedding and laying of pipe culverts
- Reinforced concrete frameworks and finish works.

#### **Site observation**

- Gabions were opened on one side of the bridge.
- Diversion was done and backfilling of water draining was not done making the new course still active with storm water.
- Stone pitching was done
- Reinforced concrete frameworks were done.
- Guard rails were erected along the bridge
- There was poor drainage as storm water was cutting the sides of the road hence causing flooding of water along the bridge.

#### **2.2 Kitingia- Sihilila Box Culverts**

Kitingia -Sihilila Box culvert is located in Kimaeti Ward, Bumula Sub- County. The contract was awarded to M/S Nissi Company Limited under tender number BGM/CNTY/GVN/EF/RT/004/2019-2020 with contract sum of Kshs12, 952,802. The contract was awarded on 16<sup>th</sup> April, 2020 with duration of six months to work completion.

The scope of the contract was to undertake the following;

- Site clearance
- Top soil stripping and demolition
- Excavation of foundations for structures
- Backfilling for structure
- Excavations of river training and new water courses
- Stone pitching
- Gabion
- Rip-rap protection work
- Backfill below structures
- Passage of traffic
- Bedding and laying of pipe culverts
- Reinforced concrete frameworks and finishes works.

## **Field Observations**

- Drainage system was not done on the bridge
- Stone pitching was not done
- Box culvert was not installed as per the BQ instead two cylindrical culverts were installed.
- Handle rails were installed although some vandalized.
- The gabions were not properly constructed
- Finishing works were poorly done
- Concrete slab was spread on the surface of culvert

You can see from the section of the photographs

## **Wamoyo Box Culvert**

Wamoyo box culvert is located in Maraka Ward, Webuye East Sub- County. The contract was awarded to M/s Kemasha Construction Company Limited under tender number BGM/CNTY/GVN/EF/RT/006/2019-2020 with contract sum of Kshs6, 891,676.0. The contract was awarded on 10<sup>th</sup> June, 2020 with duration of six months to work completion.

The scope of the contract was to undertake the following;

- Site clearance
- Top soil stripping and demolition
- Excavation of foundations for structures
- Backfilling for structure
- Excavations of river training and new water courses
- Stone pitching
- Gabion
- Rip-rap protection work
- Backfill below structures
- Passage of traffic
- Bedding and laying of pipe culverts
- Reinforced concrete frameworks and finishes works.

## **Field Observations**

- Poor drainage was noted
- The surface of the top culvert has concrete slab/finishes
- The handle rails were installed
- No gabions were done
- Stone pitching was not done
- Reinforced concrete frameworks were done

- It was noted that on the lower side of the bridge was converted into a dumping site by the nearby residents of the area making the place filthy and unhealthy.

You can see from the cross sectional photos.

### **Tuuti- Marakaru Box Culvert in West Nalondo Ward**

Tuuti Marakaru box Culvert Bridge is located in between Tuuti- Marakaru Ward and West Nalondo Ward. The contract was awarded to M/s Simspur Limited under tender number BGM/CNTY/GVN/EF/RT/002/2019-2020 with contract sum of Kshs9, 299,998.40

The contract was awarded on 7<sup>th</sup> April, 2020 with duration of six months to work completion. The scope of the contract was to:

- Site clearance
- Top soil stripping and demolition
- Excavation of foundations for structures
- Backfilling for structure
- Excavations of river training and new water courses
- Stone pitching
- Gabion
- Rip-rap protection work
- Backfill below structures
- Passage of traffic
- Bedding and laying of pipe culverts
- Reinforced concrete frameworks and finishes works.
- Finishes works

### **Field observation**

- There were two guardrails made of steel with no guardrail reflectors as indicated in the BQ that the contractor shall install one side red and another white on the flex beams every 4m.
- Gabions were done and well reinforced
- Stone pitching was completed
- The drainage system was done although needs routine maintenance
- The box culvert is well raised and there is easy flow of water
- The surface of the culvert is spread with a layer of concrete and bitumen spray
- 

### **2.5 Rehabilitation of C33 Cereals Board to River Khalaba Bridge in Khalaba Ward**

The rehabilitation of C33 Cereals board to River Khalaba Bridge is in Khalaba Ward in Kanduyi Sub-County. The contract was awarded to M/s Nabwaya Contractors Company limited under

tender number BGM/CNTY/GVN/EF/RFQ/003/2019-2020 with contract sum of Kshs3, 237,722.40.

The contract was awarded on 7<sup>th</sup> April, 2020 with duration of six months to work completion.

The background research showed that the contractor was in receipt of payment certificate No.1 of Kshs2, 753,421.61

The scope of work to be undertaken was as follows;

- Demolitions and site clearance
- Earth works
- Excavations and filling for structures
- Passage of traffic
- Miscellaneous bridge works
- Road maintenance

#### **Field observations**

1. Gabions were only done on one side of the bridge
2. Guard rails were installed
3. Filling for the structures were visible

#### **Committee's Observations**

After undertaking site visits together with analysis of the Bills of Quantities submitted by the Department, the following findings were made by the Committee:

1. The query raised by the Auditor's General report over Siuna- Kimalewa twin box culvert of not having pedestrian pathway during the construction. The Committee established that the contractor had put in place a temporary pedestrian pathway contrary to what was required in the Bills of Quantities (BQs).
2. That Some of the contractors did shoddy works by not adhering to the requirements in the Bills of Quantities (BQs) as signed in the contracts; for instance the contract for Kitingia-Sihilila box culvert.
3. The Inspection and Compliance Committee in the Department of Roads and Infrastructure negated its duties during project supervision; especially projects under Emergency Fund.
4. The Tuuti -Marakaru box culvert shares the river boundaries of Tuuti-Marakaru Ward and West Nalondo Ward yet it is named as the Tuuti -Marakaru box culvert.
5. The Wamoyo box culvert in Maraka Ward had been converted into a dumping site by the nearby residents making the place filthy and unhealthy.

#### **Committee's Recommendations**

The Committee made the following recommendations;

1. THAT the CECM, Department of Roads and Infrastructure should endeavor to ensure that the contractors assigned construction works of roads and box culverts by the County Government duly execute the projects as specified in the Bills of Quantities, the BQs. The Inspection and Compliance Committee, in the Department of Roads, Infrastructure and Public Works should carry out proper project supervision on roads project.
2. THAT the Department of Roads, Infrastructure and Public Works should clear on naming road project that share boundaries to avoid conflict and confusion, like the case encountered on naming on of the Tuuti/Marakaru box culvert.
3. THAT the Department of Roads, Infrastructure and Public Works together with the Department of Health and Sanitation should ensure that sanitation requirements are adhered to by the residents around Wamoyo area in Maraka Ward.

Members have signed and then you can look at the annexures. I call upon Hon. Mukoyandali to second the report.

**Mr. Speaker:** Hon. Job, you have the honour of seconding the report.

**Hon. Job Mukayandali:** Thank you Hon. Speaker. Let me laud the Chair of my Committee on Roads for going through that report in a very eloquent manner. From the report, it has given an outline on how the projects were carried out in our respective Wards across the County. It is giving proper direction on how these projects should be named to avoid blame games. You may cite that some projects are only being done in some particular wards and not in other wards. It is a tendency that we are always lamenting, especially for the Honorable members who are elected.

Some of the bridges and the culverts that are normally built are shared within maybe two wards but you realize the naming of those bridges is only attributed to one Ward. It brings conflict between the members and this report has given a solution to that. We expect that after the adoption of this report, the Executive will be so keen on the naming of the bridges and the culverts that they are doing.

In the report, we are also getting different contractors who worked on these culverts and the report is telling us very clearly how these projects came out. In future, we want to laud those contractors who did their work so well. You realize that the report is telling us that some of the bridges and culverts are used as dumping sites; it is a wakeup call for the Executive and this House that we actually follow up to make sure that our money is not going on projects which are just going to get lost, but is utilized in a proper way. Hon. Speaker, I wish to second the report, I submit

**Mr. Speaker:** Thank you Hon. Job for seconding the motion before the House.

*(Motion proposed)*

**Hon. Joseph Nyongesa:** Thank you Hon. Speaker. First allow me appreciate my Chair, Roads and the entire Committee plus the seconder of the report. As it is, it is a good report and we have seen how it is. If at all we are going to have such reports, we shall continue appreciating the Committee and I think they should be timely.

My only worry is that I have gone through the report; although allow me appreciate the Committee on the issue of naming especially when it comes to Marakaru/Tuuti. You know I do border several Wards; On Khalaba River, there is West Nalondo, but you see, it is covering both West Nalondo and Tuti/Marakaru but clearly indicates Tuuti/Marakaru. So anybody could confuse and say maybe Tuuti/Marakaru is reaping more than other Wards...

You see even in Mukuyuni and Kibingei it still it applies and so let the Roads Department also be clear on the issue of naming.

Secondly, as I appreciate the Committee, there are few things that they did not come up clearly on. I thought the report will also contain, now that you have said the contract like in my Ward was Kshs9.2 million, I was expecting to see that the department has paid this much and the balance is this; basing on the work done. Maybe the contractor has done a shoddy job.

Mr. Speaker there was a comment here on Wamoyo box culvert; field observation, poor drainage was noted and no gabions were done; but when you come to the Committee's observation and recommendations, there is none regarding that. I don't know if the committee was contented with this or not because they could give us direction on what we should do. Was the contractor paid or was he not paid? What should the Department do? Otherwise as I do appreciate the Committee; when the Chairman will be replying, let him show us the way forward, especially on the poor drainage. How much was paid, what is the balance, what should be the action? Otherwise, I do support.

**Mr. Speaker:** Thank you. Hon. Lusenaka?

**Hon. Anthony Lusenaka:** Thank you Mr. Speaker. I also rise to appreciate the report and the Committee for doing a good job. I also wanted to comment on Tuuti/ Marakaru issue but Hon. Nyongesa has clarified. Tuuti/ Marakaru has never missed in any report on development matters and that is on a light note.

I wanted to comment about the bridge connecting Bukembe West and Khalaba Ward; there is a serious road to Khalaba and I know the Leader of Majority uses that road frequently. The work that was done on that bridge was substandard; gabions were only done on one side of the road instead of the four sides. The road has four sides; two sides across the ward and two sides the other side; but when you look at that bridge, it was only done on one side leaving the other sides. So the work done there was incomplete and I don't know if the contractor was fully paid or maybe he was paid halfway and that is why the work was half done. I wish that as the Chair is replying to respond on that.

Secondly, I wish to request that when doing a bridge; both sides whether it is in one Ward or two Wards should be done properly. The gabions, the drainage system should be well done because it is the lack of the drainage that normally destroys those bridges and the road. They should consider this because in most cases, a bridge is done minus the drainage. I just want to request the department to do a follow up on that so that we have value for money.

**Mr. Speaker:** Before I bring Hon. George Makari to make his contribution, members as you are debating this report; at the end of this debate, it is going to the Committee on Implementation for follow ups. I will ask that we look at page No. 10 of this report; it is stated that stone pitching was not done, block culvert was not installed, and gabions were not properly constructed. With all these negatives then you approve it! What happens to that inspection report, because ultimately you must find out if he was fully paid or not! If not fully paid, can he remedy before he is paid the retention sum. The way it is, you are going to approve, but now with the Committee on Implementation the way Hon. Joseph was asking, what happens next?

Finally it is very critical now that there are some people who went to the site from the Department of Roads; the Inspection and Acceptance Team that gave right to the certificate for payment. You are recommending nothing about those characters! You ought to recommend some punitive measures to them so that at the end of this approval, the Chair of this Committee will walk around and come back and say I have gone and decided to come back. So even if the Chair replies, those measures cannot be put there by the Chair in his reply. Think about it loudly before we close this thing.

**Mr. Speaker:** Yes Hon. George. Sorry, before Hon. George comes in, Hon. Nyongesa?

**Hon. Joseph Nyongesa (On a Point of Information):** Thank you Speaker. Just to inform the House that what you are saying is right and in fact most of the time we have been returning some reports to the committees. But our members feel that it is a sign of humiliation and that is why we are just saying and guiding. You know one day I and Hon. Ipara, were termed as people who normally humiliate other committee reports. So if such a report is approved, how will the Chair of the Committee on Implementation pick it? Again, you know as much as we are saying it is the Honourable Members' part, our secretariat should also guide on the writing of the report.

**Mr. Speaker:** Thank you. Hon. Makari, you have the honour of proceeding. After Makari I have seen Hon. Mulongo

**Hon. George Makari:** Thank you Hon. Speaker, I wish to applaud you because it is like you were in my mind today, because how do we pass a report that has such negativity? As much as I applaud the Committee, Hon. Simotwo, the Chair and also if you look at the membership of that Committee it has a lot of weight in this House! Now you are giving us a report and you are listing 20 items that were not done and only five items were done. Is that a negative report or a

positive report? So Hon. Speaker, my input even before I speak on what I want to speak is that this report must go back to the committee so that they try to tie up the loose ends. If we pass the report and it goes to the Committee on Implementation, what is the Committee on Implementation supposed to do with the report that is three quarters negative and a quarter positive.

There is no proper recommendation, I want the Roads Committee not to judge me harshly; I am not being negative but look at the report with all the loose ends... untied ends! We pass the report where Kshs9.8M was paid, Kshs3.23M was paid, KShs13...was paid or the contract sum is this I don't know if it was paid or not.

The contract sum was this amount, did the Committee find out if this amount was paid? With such loose ends; that stone pitching, drainage, back filling was not done and this arises from their write up, it is not me saying, the Chair has just said this.

Can this House pass such a report? It is my prayer that we take back this report so that the Roads Committee can find out if the amount allocated of Kshs13.9M on Kibingei-Mukuyuni for 10 box culverts was the amount paid, what about the pending works that were not done on this project? For all these things that were not done and the whole amount was paid, what then happens to the undone works? So without any malice and without belittling the Roads Committee... I respect the Committee on Roads by the way, but from where I sit; we must take back this report. They need to find out if the money that was paid was for the work that was intended; because from the report, several things from the five bridges were not carried out. Let them find out if this money was paid, then why these other things were not done. If there is any money that was not paid, can the contractor now go back on site and carry out the works that the report is outlining that were not done.

Two, if you look at the amount for 2020/2021 and 2021/2022, it says KShs70,000,000 plus Kshs47,000,000; and if you total up the five bridges, all of them come to KShs46,000,000 or there about. Now, the amount that has been allocated in that financial year is Kshs117,000,000... now where is the rest of the money? The Committee has to find out if first of all there is an allocation of KShs70,000,000 then there was an addition of KShs47,000,000 which brings

us to KShs117,000,000; then where did this other money go to? Maybe the Committee has also to find out where the rest of that money is!

Finally, Siuna- Kimalewa to box culvert that is in Kibingei and Mukuyuni, I want to ask a question; how do these projects get identified? Because I am an elected member and I have never seen anyone asking me I have an emergency bridge in my ward that needs to be taken care of.

With all these allocations these years, how do these projects get identified in our wards? Now, these are only five wards of course and it is touching on senior member Hon. Balala in Maraka, Hon. Ali Machani Mutoka. Also it is touching on a senior member the Hon. Leader of Majority representing Tuuti Marakaru in West Nalondo.

Then it is touching on Kimaeti, West Nalondo and Khalaba. With 45 elected members in this House, how do these departments... in fact these funds are domiciled in the Roads department. It is domiciled in the Department of Finance it is an Emergency Fund.

How do they identify that in Musikoma, there are no emergencies? You are an uncle in Musikoma... I am sorry to inform these Honorable Members that you are an uncle in Musikoma and you know that there are bridges are not passable. In fact, one *boda boda* rider was a bit drunk and fell in the water because there was no bridge; and when you are drunk, you do not know that there is no bridge. No one has ever asked or maybe there are Honourable Members here who have been if they have an emergency they say no. I have never been asked.

Bottom line is the identification of these emergency projects. How is this done and can the Roads Committee go back and now ask the Department how do they identify these emergency projects in our wards? There are some wards that year in year out are always on emergency mode... bridges are getting constructed every other year while in other wards, there is nothing going on! Since I came here in 2017, this is my seventh year. I have never seen anyone asking me if there is any bridge that needs construction. What will we be doing? There are other wards that are not wards and we have other which are wards; leave alone Tongaren, which has no roads. Sorry to inform the House.

*(Laughter)*

**Mr. Speaker:** Hon. Makari that is very offensive.

**Hon. George Makari:** Speaker I withdraw.

**Mr. Speaker:** They use vehicles, Hon. Kikechi uses a vehicle, Hon. Jerusa uses a vehicle and Hon. Ipara as well...they don't fly to Bungoma, they drive to Bungoma.

**Hon. George Makari:** Hon. Speaker I withdraw but there is only one road going to Tongaren. There are no other roads, but for those of us who have the benefit of having very many roads, it is just common sense and humanity. That if there is any allocation that is going to be done; this KShs117, 000,000, the department uses KShs46, 000,000; what is the ratio of the money? Why

can't we also say that now in Hon. Job Mukoyandali's Ward, and there is a road or bridge that needs rehabilitation or in Obama's place or Hon. Nangulu' s, why should we be repeating the same things every year.

As I finish, it is my prayer that this reports goes back; not with any malice, but with an open heart so that they try to tie up the loose ends. I know it is a very competent committee and whatever they have given us, they have exposed it themselves. It is not me saying because they write this about Wamoyo Bridge; that this was done and this was not done. So can they find out what happened that whatever they are listing that was not done and why was it not done? And if the contractor was paid the whole amount, why didn't the contractor carry out the works that were supposed to be carried out. Therefore let us give back the report for beefing up then it comes back to the House so that when the Chair calls me to second, I will.

**Mr. Speaker:** Thank you Hon. Makari let us have Hon. Aggrey Mulongo and then I will have Joan Kirong'.

**Hon Aggrey Mulongo:** Thank you Mr. Speaker for giving me this chance to contribute towards this noble report. I come from Kibingei and Kimalewa; that is in Mukuyuni ward where the first bridge was put up. To all sector Chairs that are here, we are having some recommendations as the Implementation Committee that are forwarded to us for following up and we can't write a proper report. Why, Speaker?

This is just part of the reports that we usually get as the Committee on Implementation and therefore I also urge my fellow Chairs of sector committees, let them conclude the reports before handing over to us. You know we cannot add or subtract anything on those reports. Kindly tell the secretariat to look into it and let it come to the conclusion that this is the way and the accompanying penalties. If you have already observed that stone pitching was not done, the pathway was not even constructed now what are your recommendations? When it comes to me, I will also go with the recommendations from the sector committees with my committee on Implementation.

That for the Siuna- Kimalewa Bridge, an allocation was around Kshs11Million and here I am hearing it is Ksh.13Million, then that means that the work done on the site was not finished. I also urge this Committee...

**Mr. Speaker:** Hon. Aggrey, there is an allocation and contract sum; so distinguish that you may have been given Kshs10Million for that purpose, but the contract signed between the County Executive is such amount of money so that we go by that amount of money that was in the contract sum based on the BQs issued, proceed!

**Hon. Aggrey Mulongo:** Thank you Mr. Speaker, let them come up with a conclusion. How much was allocated, how much was the sum, in fact, let them attach the payment vouchers for us to see that this much was paid, the balance was this much. He has not even taken the retention

fees because once six months lapses, contractors go back to collect retention fees. I also go with what Hon. Makari proposed that it be taken back so that they can finish the report properly.

**Hon. Joan Kirong':** Thank you Mr. Speaker for giving me this chance to add my voice on this report. This is a very discouraging report and I want to join Hon. Makari who has mentioned so many gaps on it. I also wanted to ask the criteria they used to identify those emergencies in these Wards; they term them as Emergency Funds or Disaster Management Funds. If you see my Ward, Kapkateny', it is the origin of these rivers. I have very big rivers and there is nowhere they have mentioned about the bridge. I have written so many reports to the respective departments on the same. I will join my colleagues in saying that these people are biased. I want to urge the Roads Committee to allow the department to balance this county; let us see the face of Bungoma County on these projects.

In my Ward, I have buried three people this year alone because they were swept away while crossing a river and their bodies were retrieved after two weeks. When I look at the project list and the roads they have mentioned, I think they were done during the last regime. You will then find that these projects are again taken in this regime and in the same Wards....

**Mr. Speaker:** Hon. Kirong', that line of argument will bring you problems for one simple reason; if you say the same wards; now between Kibingei and Mukuyuni, who will be the beneficiary? And between Khalaba and West Bukembe; then Tuuti/Marakaru and West Nalondo... that line of argument is very dangerous...

**Hon. Joan Kirong':** It is not dangerous Mr. Speaker, you know me. I boarder with Hon. Museveni and if they can use such a way to identify the emergencies in our Wards, then that bridge was supposed to be shared with Hon...

**Mr. Speaker:** Hon. Meshack? I allow Hon. Meshack, Hon. Kirong, resume your seat.

**Hon. Meshack Simiyu:** Mheshimiwa Spika, naomba Mheshimiwa Joan kwa heshima. Tangu niingie kwenye hii *Assembly* (bunge) nafikiri Kibingei na Kimalewa ndio iliyokuwa ya kwanza. Hapo niko na Kapkateny' na Mukuyuni; ukija huku chini kuna mheshimiwa Kawa na Mheshimiwa wa Namwela; hivyo ninaomba isiwe ya kwamba hii ya kwanza mimi na mheshimiwa Mulongo ndio tumekuwa chanzo cha shida. Kama ningekuwa nimefanyiwa mahali pa tatu, ingekuwa vyema lakini moja; tu nakuomba mheshimiwa Joan

**Mr. Speaker:** Hon. Kirong' I saw that angle coming and it is better you leave that it out.

**Hon. Joan Kirong':** Hon. Speaker that is why I have suggested that we need more reports on roads because there are some bridges that they have done recently...

**Mr. Speaker:** Hon. Kirong, they are very clear, 2020/21, 2021/22, if you want the one for 2023/24, you ask for a statement and it will be given to you here.

**Hon. Joan Kirong':** That is why I am suggesting that we have to request for more...

**Mr. Speaker:** You as Hon. Kirong' can request, ask, bring a statement, don't hide in this one!

**Hon. Joan Kirong':** Thank you Mr. Speaker, so I am seeing a trend where in the last regime, some members who served on the Budget and in Roads committees after doing works in their Wards, they suggested in the Budget committee that we remove all the money... that we do not allocate anything on fuel levy; and this was after doing their roads. I am seeing the same scenario.

**Mr. Speaker:** Hon. Kirong', I will not allow that line of argument to go on because I am sure of one thing; Hon. Mulongo has never been on the Budget Committee, equally Hon. Lusenaka during the last Assembly was not on the Budget Committee and even Hon. Majimbo the former MCA was not on Budget Committee; so it was Khalaba and Bukembe West. That line is not assisting you, if you want a statement about the status of roads, request for yours and it will be given to you

**Hon. Joan Kirong':** Mr. Speaker as much as you are protecting these people, I am saying the reality.

**Mr. Speaker:** You are out of order now, that one you are out of order! Proceed, Hon. Nangulu

**Hon. Charles Nangulu:** Thank you Hon. Speaker, I happen to be a member of this Committee and I wish to remind fellow members of this House that our mandate is to oversight, represent and to legislate and that is what we are doing today. As a committee, we went to lengthy depths, we carried out a fact finding exercise on these projects that have been mentioned and what we found is what the Committee has actually observed and recommended. By asking that this report to be taken back to the committee; there is nothing or very little to be added.

**Mr. Speaker:** Hon. Nangulu, you are failing in your duty in terms of oversight. Where I sit as the Speaker, I have no interest in these bridges but I am asking these questions because if they were paid without completions, how do you justify that payment in terms of oversight?

**Hon. Charles Nangulu:** Thank you Speaker, as we continue with our report, we now know why we need to get to the next level, the Committee on Implementation and from the same, we have agencies that can go and find out whether works were done or not done; and have them penalized and taken to court. As a Committee, we have given our report which is very specific that the Committee on Implementation takes over the report and then from there...

**Mr. Speaker:** Hon. Nangulu, do you have a copy of your report?

**Hon. Charles Nangulu:** I have it on my desk, Speaker.

**Mr. Speaker:** Look at number one on the mandate of the Committee, look at number (f), (g), (h) under Standing Order No. 217(5)...read them aloud for members to hear what I am guiding you on. Start on (f)

**Hon. Charles Nangulu:** I have my report here, page 4; the mandate of the Committee is derived from the County Assembly Standing Order No. 217(5)

- a. Investigate into and inquire and report all the matters relating to the mandate, management activities, administration, operation and estimates of the assigned department

**Mr. Speaker:** You go to (f)

**Hon. Charles Nangulu:** (f) Investigate and inquire into all matters relating to the assigned department as they may deem necessary and as may be referred to them by the County Assembly

**Mr. Speaker:** You know what you are doing as a member of that committee?

**Hon. Charles Nangulu:** Hon. Speaker, this report the way it is if taken to the Committee on Implementation, they have all the facts, all the figures and pictures so that they can take over...

**Mr. Speaker:** I am asking a very simple question Hon. Nangulu; if it goes the way it is, and somebody did not do his work during inspection and acceptance, how can we punish him/her without your recommendation?

Two, if that contractor was not paid the entire contract sum, how do you force him to go back to site to do that work? It is through your recommendations and not the Committee on Implementation.

**Hon. Charles Nangulu:** Speaker, we have given a lead on our first recommendation...

**Mr. Speaker:** Hon. Nangulu, you are out of order! There is nothing you are telling us here; this is just common sense

**Hon. Charles Nangulu:** Speaker, we have committees that we have to give this report to and at the same time, we have agencies that can actually penalize these people...

**Mr. Speaker:** Now this report does not have any agency recommendations, do we force it to be taken there? I thought you should be recommending such things, vice chair Budget; unless where you are coming from is not! What I doubt now is that you are always a very sober man and a very good friend of mine... what is not happening!

**Hon. Charles Nangulu:** Hon. Speaker, that is our report and I submit...

**Mr. Speaker:** Members, let me say once again that I don't have any interest in this report, but I would like to guide you that if this report is adopted the way it is, the Committee on Implementation has nothing to do with this report. If the road from here to Bukembe-West has not been done properly and the contractor was not paid the entire contract sum, we can then recommend that it should not be paid until he goes back to the site for completion of works.

Therefore, if it is approved this way; you are supposed to pay him, yet he did not complete the works. How do you go about it? Members, this issue is not for this Committee alone. This report will be used even in the next 30 years by people who will come after us. When we want to make corrections, it should not be construed to mean we are biased. Our responsibility is to do oversight as a House. As raised by the Member representing Tuuti/Marakaru, the project is incomplete yet you want the contractor to be paid the entire amount! People will wonder why recommend a clean bill without sanctions?

Members I know you may insist that this report should go through the way it is; but as I have always said to other reports, I urge that you should be keen on what you are recommending before this House. Hon. Ali Machani?

**Hon. Ali Machani:** Thank you, Hon. Speaker. I think this is not the first report to find itself in such a situation. There are many reports that have come in this House and Members have raised concerns over some grey areas. As a matter of procedure, there is no harm for any committee to go and review its report. Secondly, you have a duty as our Speaker to advise as the moderator of this House. This has happened several times; I can remember the Public Administration Committee, Public Accounts and Investments Committee and others, even the Budget Committee; you have always given your advice.

Sometimes you can think that you have done something correctly, even typo errors. That is why you will always realize that there are some challenges in any report. When advised to go back and relook at our reports, it should not be seen as if someone has an interest in our Committee. We should also understand that in this document, we missed a point of recommending what should be done on this report at this final stage. Therefore, I beg that you give us a leeway over the same. We can say this is a progress report from the Roads Committee and request for time to improve on it.

**Mr. Speaker:** I think that is the way to go. As rightly indicated by the Leader of Majority to some extent, the secretariat failed the Committee because they are the technical people on those committees; and they are supposed to give proper advice to the Members. When they fail to do things properly, you might imagine that the Committee failed, but it is the secretariat which is the engine of a Committee. I will have a meeting with the Deputy Clerk; Legislative Services and explore ways to deal with this issue administratively.

When you go to the Kenya School of Law, you will find newspapers of 1945 bound as records. You can get newspapers on a daily basis. Now that we are putting up a modern chamber, we will have enough space to archive these reports. Imagine in the year 2060; the Alpha Generation will be the occupants of these seats and consumers of our reports and we must get them right for posterity. Even at my own level, when you come to my chamber, I have all the recommendations of these reports. When you come up with thorough recommendations to punish some members of the Inspection Committee, it will work as a deterrent. The least you can recommend is to attach the salaries for such mistakes and they will stop colluding with contractors to the

disadvantage of the County Government of Bungoma. If left to behave the way they are doing; they will do this is Maraka, Tuuti/Marakaru, Kibingei, Mukuyuni and even Kimaeti. But when you punish some of them, they will stop behaving this way.

**Hon. Johnston Ipara:** Thank you Hon. Speaker. After listening to the concerns raised by the Honorable Members I wish to say this; what Honorable Members have said is in good faith. They require a report that will stand the test of time and referring the report back to us is not an offense. Therefore, Hon. Makari you should not look like you have committed a crime. You are just playing the role that you are supposed to play as a legislator. Members are raising issues because of that omission that appears under the column on recommendations. Because if you look keenly, we observed and even pinpointed out the omissions; and the purpose we pinpointed out was on economic efficiency and cost-effectiveness. That is why Honourable Members are asking questions; how much was paid and how much was not paid! These are genuine concerns which I totally agree with, because what has happened is that there are some minimal disruptions that were done to the projects that were not complete. This requires that we must show the way and this is the reason it is not clearly indicated in our recommendations. I called my chairperson of the Committee to share and find out whether we intended to do what is appearing in this House or otherwise.

Honorable Speaker, based on the six issues that I want to say; one on efficient management of those box culverts, two, structural support, environmental safety particularly for those who want to use those culverts when they are well done and three, the design and flexibility in terms of the boundaries for Soysambu, Tongaren and Ndalu... it must bear the names of all of us. Actually we did not indicate that and we don't want to lay blame elsewhere, we just want to accept that there is an omission that has happened and that omission if this report is given back to the committee will be well done. I believe that this report now is the property of this House and with authority to refer back or to accept our report with directions. Honorable Speaker, I submit.

**Mr. Speaker:** Chairperson of the Committee I want to allow you to ventilate and I want to assure you as a House that we are doing this in good faith. I remember sometimes back in the last Assembly, we sanctioned a CECM for failing to appear before us and even at committee level... you can recommend for fines for those who don't behave as required by the Committee. Therefore, all this is meant to make your work easy and I advocate for punitive measures on some officers so that they can change.

**Hon. Franklin Simotwo (Chairperson, Committee on Roads):** Thank you Mr. Speaker for giving me an opportunity to speak on this report.

**Mr. Speaker:** You are not replying to the motion. Just make comments.

**Hon. Franklin Simotwo (Chairperson, Committee on Roads):** Speaker issues have been raised by Members which are fundamental and which as a Committee we are ready to go back and relook. Therefore, all grey areas in this report should be properly pointed out so that when this

report is brought back to this House they would have been addressed. It is important that what has been pointed out by Members is dealt with and as such, as a Committee through you, we ask that this report is referred back to enable us report back appropriately.

**Mr. Speaker:** Members, this is a general observation that even non-members of this Committee are allowed to give their proposals for purposes of improving this report. Something might be noticed by Hon. Ken Wanyama, Hon. Lusenaka or another non-member. Even I will also forward my views for consideration. For instance on the Maraka Bridge which I regularly use when going to my home; it is not meant for me but I am a beneficiary of the bridge.

I will ask the chairpersons who keep reports to themselves that had this report been brought to my attention before being tabled on the Floor of the House, I would have advised on the flaws in the report. When a report is ready and as you submit a copy to the Office of the Clerk, you should also have a copy submitted to my Office.

**Hon Anthony Lusenaka:** Hon. Speaker, I wish to request the Chairperson, Roads Committee that he ensures that this report does not disappear the same way the one for the Agriculture Committee did after it was referred back.

**Mr. Speaker:** Hon. Makari sought that this report be referred back to the Committee and was seconded by Hon. Aggrey Mulongo. I think we are all in agreement; unless there is a Member with a contrary opinion. Consequently, I hereby refer this report back to the Committee on Roads. We should be keen on what we proffer as recommendations, because if a report is done well and you are the same Members on the Committee on Implementation. Therefore, if you fail to state the problem in your report, even if it goes to the Committee on Implementation, they not move.

Members, I have looked at the vetting schedule and if you are not aware, the Assembly has scheduled this exercise from 8<sup>th</sup> which is next Monday and continuously up to the 20<sup>th</sup> when we shall proceed for report writing. Each Sector Committee has been allocated two days for the activity; meaning we will resume our plenary sittings on 20<sup>th</sup> July, 2024. Therefore, I will allow this Committee four weeks so that when we resume, we will be having many pending reports in this House. From this Thursday you are going for the short recess; your report writing will be done over the short recess. When we resume, the vetting reports will be processed all together. We don't want to make somebody to lose his welfare; this exercise will be done committee after committee until all the six committees are done. If you are on three committees, you will have all your six days.

Having said that; Hon. Simotwo can consult me after this so that I can share my views on the report.

## ADJOURNMENT

We therefore adjourn to resume tomorrow at 9:30 a.m.

*The House rose at 4:03 p.m.*