

COUNTY ASSEMBLY OF TAITA TAVETA

THIRD ASSEMBLY - THIRD SESSION

THE HANSARD

Sitting no. 053

Wednesday, July 24, 2024

The House met at 2:31 p.m. in the County Assembly Chamber

[The Acting Speaker (Hon. Anselm Mwadime) in the Chair]

PRAYER

QUORUM

The Acting Speaker: Honourable Members, I confirm that there is quorum to proceed with this Sitting. Clerks-at-the-Table, read the Orders of the day.

COMMUNICATIONS FROM THE CHAIR

The Acting Speaker: Honourable Members, the Chair has the following communications to make.

PUBLICATION OF HANSARD REPORTS

Honourable Members, you are hereby notified that there shall be published within 48 hours, a verbatim report of all proceedings of the County Assembly unless the Speaker is satisfied that this is rendered impossible by some emergency in accordance with Standing Order no. 223(1).

Every Member shall have an opportunity to correct the draft verbatim report of his or her contribution, but not so as to alter the substance of what the Member actually said as stipulated in Standing Order no. 223(2).

Where there is doubt as to the content of the verbatim record of the County Assembly, the Speaker shall decide in accordance with Standing Order no. 223(3).

In addition, in accordance to Standing Order no. 76(1) and (2), all proceedings of the County Assembly shall be conducted in Kiswahili, English or in Kenyan Sign Language.

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A Member who begins a speech in any of the languages provided for shall continue in the same language until the conclusion of the Members' speech.

Honourable Members, you are all encouraged to oblige. I thank you. Next Order.

ATTENDANCE AT THE GALLERY

Honourable Members, before we go to the next Order, I would like to acknowledge those in attendance at the public gallery; Ms. Judith Chao Kadilo, Ms. Faith Saru Mwadime and Mr. Renson Mnyamwezi from the Standard Media Group. Next Order.

STATEMENTS

The Acting Speaker: Yes, Hon. Jones Solomon, the Majority Whip.

STATUS OF MBULIA COMMUNITY LAND MANAGEMENT AND THE PROPOSED STEEL FACTORY IN MANGA –VOI SUB-COUNTY

Hon. Jones Solomon (MCA, Ngolia): Thank you, Mr. Acting Speaker, Sir. I beg to seek the following Statement:

In line with parliamentary best practices, precedents and conventions, and pursuant to the provisions of the Third Taita Taveta County Assembly Standing Order no. 42(2)(c) relating to the Sitting's Order no. 7, Statements. I beg to seek a Statement on the status of Mbulia community land management and the Proposed Steel Factory in Manga, Voi sub-County from the Sectoral Committee on Lands and Human-Wildlife Conflict Resolution.

The affairs of Mbulia community land remain shrouded in lack of openness and accountability on matters relating to its management and the proposed steel factory which is to be set up in Manga within the said land. While we welcome the investment, it is of great importance that this Assembly gets to understand the arrangements in place for the benefit of our people on account of opportunities that come with the investment.

In view of the above, I would like the Lands and Human-Wildlife Conflict Resolution Committee to furnish this House with the following information:

1. The management status of the community land and whether the same is due for fresh elections.
2. The tenure of the Community Land Management Committee.
3. The date of the last elections of the management committee.
4. The nature of the user rights of the investor on the community land and whether the same is on lease or sale terms.
5. If on lease, the conditions of the lease which is registered or to be registered.

Just to add, the project that is likely to take off in Manga is a multi-billion project. The current committee was elected in 2022 and to date, it has not held a single meeting. According to our quick and rough calculation, its term ended in February 22, and the members are worried.

(Interruption)

The Acting Speaker: Honourable ranking Member, kindly clarify the information you are giving. Particularly, the Chair is not certain about the election dates of the Community Land Management Committee and when their tenure was to lapse. I have heard of 2022, make it clear please.

Hon. Jones Solomon (MCA, Ngolia): Thank you, Mr. Acting Speaker, Sir. The election was conducted in February 2022 and the committee was to hold office for three years; its term ended on 21st February 2024. Members are concerned about the attitude of this committee. They doubt it because it has never held a single meeting since its election. We do not want to depend on hearsay. So far, the members have not yet been informed whether land has been bought or leased. As I have just said, the land needed for this project is 500 acres and the valuation has already been done; it was valued at Ksh. 50 million only. This is just for the information of the House.

(Interruption)

The Acting Speaker: Yes, Deputy Leader of Minority.

Hon. Amos Makalo (MCA, Kasigau): Thank you, Mr. Acting Speaker, Sir. I wanted to rise on a Point of Order on clarity of information.

The Acting Speaker: We need you to be clear. Are you rising on a Point of Order or Point of Information?

Hon. Amos Makalo (MCA, Kasigau): A Point of Order.

The Acting Speaker: Which Standing Order?

(Laughter)

Kindly resume your seat, Honourable Member. Ranking Member, proceed. You need to clarify issues but you are not given so much time, kindly wind up.

Hon. Jones Solomon (MCA, Ngolia): Thank you, Mr. Acting Speaker, Sir. In short, let me wind up by saying that; we need transparency, accountability and honesty in the upcoming project. Thank you, Mr. Acting Speaker.

The Acting Speaker: Chairperson of the Committee on Lands and Human-Wildlife Conflict Resolution, what are your remarks on this Statement?

Hon. Anisa Mwakio (MCA, Nominated): Thank you, Mr. Acting Speaker, Sir. I want to thank the Honourable Member for bringing up this Statement at this particular time. It is unfortunate that the Committee on Lands and Human-Wildlife Conflict Resolution has never participated in whatever is happening in Manga. We have never been invited or given any notification. None of us has participated and worst of all, Hon. Jones Solomon, the area MCA, has equally never participated in any activity pertaining to that. It is a concern raised at the right time...

(Interruption)

The Acting Speaker: Honourable Chairperson of the Committee on Lands and Human-Wildlife Conflict Resolution.

Hon. Anisa Mwakio (MCA, Nominated): Yes, please.

The Acting Speaker: You are out of Order. You need to give a commitment on the matter that has been sought by the Honourable Majority Whip. It seems like you sat and colluded that this Statement be sought on the Floor of the House. Give us your commitment on the timelines, and we will open a window just briefly and, in a jiffy, for Members who have remarks to make on the Statement sought. Proceed.

Hon. Anisa Mwakio (MCA, Nominated) : It is unfortunate that I have overstepped my mark. Truth be told, I have not colluded with the area MCA; it is a matter that is in the public domain that is why I have received it the way I did and because this is a matter of urgency, I would kindly request to report back to the House within seven days. Thank you, Mr. Acting Speaker.

The Acting Speaker: Statement seeker, is that sufficient?

Hon. Jones Solomon (MCA, Ngolia): Mr. Acting Speaker, Sir, that is quite sufficient.

The Acting Speaker: Are you on Hansard?

Hon. Jones Solomon (MCA, Ngolia): Yes, I am, Mr. Acting Speaker, Sir.

(Laughter)

The Acting Speaker: So, Honourable Members, I open the Floor, as a tradition of the House, to Members that have any remark to make on that particular Statement sought. Let us remember that the limitation is three minutes per Member and the total sum not exceeding 20 minutes. This is the window where Members like Hon. Amos Makalo may have a chance to now bring their issues on board. Honourable Members, the Floor is open but remember three minutes limitation, and a maximum sum total of 20 minutes. The rule remains, not unless you stand up, you will not be in a position to catch the Speakers' eye. Hon. Makalo.

Hon. Amos Makalo (MCA, Kasigau): Thank you, Mr. Acting Speaker, Sir. First, I wish to appreciate the Member for bringing up this matter. I know it is a matter of high magnitude to this County. The questions raised are quite in order and I am looking forward to seeing the response. I believe that by getting these answers, the project will materialize because land is one of the factors of production and if this matter is not availed with relevant information, then we might not be able to realize this project. I am therefore concurring with those questions. However, when I stood up, I wanted the Member to clarify issues because we ought not to be misled in terms of the period. He said that the committee has a period of three years, and it was elected in 2022. When he says the term ended in February 2024, it does not add up. He should give clear information on when the committee was elected. He has said that the committee's tenure has ended, yet it seems that their term is still active according to the years he has given. I wanted him to clarify that because it may invalidate some of the questions asked. With these few remarks, I think the questions are very valid and once they are responded to, we will be able to direct the project to materialisation. Thank you, Mr. Acting Speaker.

The Acting Speaker: You should have rose on a point of clarification. That notwithstanding, Hon. Jones Solomon, would you give clarification on the dates?

Hon. Jones Solomon (MCA, Ngolia): Thank you, Mr. Acting Speaker, Sir. In simple arithmetic, how many years are those? Hon. Amos Makalo can educate us. Mr. Acting Speaker, Sir, kindly guide us.

(Laughter)

The Acting Speaker: You are now bringing matters of rudimentary mathematics on the Floor of the House. However, for purposes of Hansard, that fact shall be confirmed. Next Statement, Hon. Kinyili Anthony.

STATUS OF COUNTY EDUCATION SCHOLARSHIPS

Hon. Kinyili Anthony (MCA, Chala): Thank you, Mr. Acting Speaker, Sir. I beg to seek the following Statement:

In line with the parliamentary best practices, precedents and conventions, and pursuant to the provisions of the Third County Assembly of Taita Taveta Standing Order no. 42(2)(c) relating to the Sitting's Order no. 7, Statements, I beg to seek a Statement on the status of County education scholarships:

The Taita Taveta County Assembly approved the Third Supplementary Budget for Financial Year (F/Y) 2023/2024, whereby the County scholarships and other educational benefits had an allocation of Ksh. 33 million;

It was however noted with concern during the consideration of the Programme Based Budget (PBB) for F/Y 2024/2025 that, the Department of Education, Libraries and Vocational Training

Centres (VTCs) and Information and Communication Technologies (ICT), did not submit a report on how the Ksh. 33 million meant for scholarships and other educational benefits was utilized during the F/Y 2023/2024.

In view of the above, I would like the Education, Libraries, VTCs and ICT Department, through the Chairperson of the Committee on Early Childhood Development Education (ECDE), Libraries and Vocational Training, to furnish this House with the following information:

1. A detailed report on beneficiaries of the scholarships during the F/Y 2023/2024.
2. A detailed report on the Department's plans on the utilization of the scholarship funds meant for the F/Y 2024/2025, considering that there will be no form ones in the year 2025 and the allocation still stands with similar amounts as the one for the last financial year which had four classes for consideration.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Chairperson of the Committee on ECDE, Libraries and Vocational Training.

Hon. Kimuyu Daniel (MCA, Mahoo): Thank you, Mr. Acting Speaker, Sir. First of all, let me thank Hon. Kinyili Anthony for the Statement sought. It is a very important issue and I call upon this House to give the Committee 14 days because this is a finance related issue. The period will be enough for us to bring a very clear report. It involves an amount of money and we also need to see what next. Thank you, Mr. Acting Speaker.

The Acting Speaker: Statement seeker, is that response sufficient?

Hon. Kinyili Anthony (MCA, Chala): Thank you, Mr. Acting Speaker, Sir. The response is sufficient. Thank you, Mr. Acting Speaker.

The Acting Speaker: Honourable Members, the Floor is open to those that have remarks on the Statement sought. Remember the allocation of three minutes per Member and a total sum of 20 minutes.

(Silence)

The Acting Speaker: Let us move on to the progress report. Hon. Kimuyu Daniel, the Chairperson of the Committee on ECDE, Libraries and Vocational Training.

STATUS OF BUNGULE VTC DORMITORY

Hon. Kimuyu Daniel (MCA, Mahoo): Thank you, Mr. Acting Speaker, Sir. I beg to give a progress report on the Statement sought by Hon. Amos Makalo on the status of Bungule VTC dormitory.

The following works need to be done for the dormitory to be complete:

1. Plastering,

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2. Renovation of the roofing as it is perforated,
3. Partitioning of walls is incomplete and needs to be done,
4. Floor finishing,
5. Windows needs to be fixed,
6. Doors and frames also need to be fixed,
7. Lavatory ventilations need to be done,
8. Incomplete septic tank and soak pit are to be worked on.

On the reasons as to why the dormitory has taken too long to be completed, the Department informed the Committee that two contractors abandoned the site. The first contractor who was awarded the tender during the FY 2016/2017 requested for the first payment which was not honoured and has not been paid to date. The second contractor under-quoted the works and threatened to sue the County if the work was given to another contractor. This caused delay f

or the work to be retendered, and after discussions, the contractor agreed to let go so that the tendering process can be done for the remaining works to be completed.

On the plans that the Department has put in place to ensure that the project is completed in good time for purposes of enhancing vocational training, the Department has requested for and received bills of quantities for the remaining works and forwarded it to the Procurement Department for tendering process where a capable contractor will be identified and handed over the site to complete the remaining works.

The Committee is also planning to visit the site and assess its true position during its project inspection tours and will table a conclusive report in this House in due course.

As prior indicated, this is just a progress report. It is the response from the Department. I am also aware that there are many projects that fall under this Department which are incomplete in most of the 20 Wards in Taita Taveta County, this being one of them. I am aware that Hon. Amos Makalo took action prior to the submission of this progress report and the dormitory is now functioning. Allow me to sit. Thank you, Mr. Acting Speaker.

The Acting Speaker: Honourable Chairperson, the Chair is lost on the fact that you have given a progress report, meaning that the document is work-in-progress but in your final sentence, you are saying that the dormitory is now functioning. Are you now bringing a stale response to the House, or what is it? Can you clarify?

Hon. Kimuyu Daniel (MCA, Mahoo): Sorry, Mr. Acting Speaker, Sir. I understand the progress report is what is available. We are yet to make a visit and confirm if there are any changes on the status. Thank you, Mr. Acting Speaker.

The Acting Speaker: Statement seeker, is that progress report sufficient?

Hon. Amos Makalo (MCA, Kasigau): Thank you, Mr. Acting Speaker, Sir. I am equally lost and wondering whether the Chairperson's response is concerning a facility that I know. As far as I am concerned, as we speak today, the facility is fully completed and occupied. I do not know if the Chairperson is responding to the actual Statement sought or he has brought in something new. From where I stand, the dormitory is complete and in use. However, the challenge is that this Statement was sought a long time ago. When the Chairperson said 14 days, he should have meant it. This was about one year ago, and that is why there are changes. If this is the same facility, then they need to reconcile the information and bring an updated response. With those few remarks, I wish to say that the Chairperson needs to update his information. Thank you, Mr. Acting Speaker.

The Acting Speaker: The Chairperson of the Committee on ECDE, Libraries and Vocational Training, we are back to you. You are reading a progress report based on a response that was brought to this House on which date? Apart from that, are you just reading the response directly from the Department? This is a progress report and it is expected that your Departmental Committee looked at the response from the Executive and came up with a report that, we have received this, and this is what we deduced. Apparently, it seems like you are reading a response directly from the Department, right? Clarify so that we are also sure whether we are talking about Bungule VTC, Kambugu VTC or a different one.

Hon. Kimuyu Daniel (MCA, Mahoo): Thank you, Mr. Acting Speaker, Sir. As I said earlier, this is a progress report and the Departmental response was received three weeks ago since we requested for information on the status of that particular facility. Sometimes we face a hard time when we ask for a response from the Department and they take time. We only gave this progress report as per the response we received three weeks ago. We had no time to visit the facility and solely relied on the report from the Department which was submitted three weeks ago. I was shocked to know that the progress report had taken too long to be submitted to my Committee and subsequently this House. I will make sure that when a Statement is sought in this House, through my Committee, it is addressed within the stipulated time. This is the report we have from the Department; it was received three weeks ago. Thank you, Mr. Acting Speaker.

The Acting Speaker: So, you received the report three weeks ago but you are giving the response today, after three weeks?

Hon. Kimuyu Daniel (MCA, Mahoo): When we received the report, we had to sit down and go through it. Looking at the Statement sought by Hon. Amos Makalo, it clearly showed that the response was not sufficient. We agreed as a Committee to give a progress report so that you understand that we are also doing something. Thank you, Mr. Acting Speaker.

The Acting Speaker: I am equally being informed by the Clerks-at-the-Table that this response was to be given shortly before the House proceeded on short recess, but apparently the Statement seeker was not in the House and that is why the progress report was deferred.

Honourable Members, we need to understand that when you seek a Statement and the response is about to be tabled on the Floor of this House, in the event that you will not be in the House during that moment, it will be perceived that you had no interest in that response, and you should never bring up that matter again on the Floor of the House. When you do so, it will amount to gross misconduct. So, Honourable Members, let us take note of that. All the same, let us rest the matter there and we proceed to the next response.

ONGOING CONSTRUCTION OF WATER PAN IN MAILI KUMI, LANDI IN MWATATE WARD

Hon. Brayson Mwambi (MCA, Sagalla): Thank you, Mr. Acting Speaker, Sir. I beg to give a response on Statement sought by Hon. Joseph Kennedy on the ongoing construction of water pan in Maili Kumi Landi in Mwatate Ward.

The Committee received the response from the department and also visited the site on 15th May 2024. Therefore, I am going to give both responses.

The Maili Kumi Water Pan was constructed during the pre-devolution era to provide water for micro-irrigation and livestock for Landi Maili Kumi community of Modambogho sub-location in Mwatate Ward.

As reported by the local administration, in November 2023, Kenya National Irrigation Authority (NIA) embarked on rehabilitation and expansion of the water pan to harvest and store more water for use during the dry seasons and enhance the resilience of the community against extreme drought events.

However, without notification to the County Government and due to circumstances beyond the purview of the County Government, the works' contractor abandoned the site in December 2023 after undertaking excavation works for the existing water pan, two silt traps, one inlet channel and spillway.

A substantial amount of work was yet to be executed which included but was not limited to fencing, lining of reservoir, stabilization of internal and external embankment walls, erosion protection works for the inlet channel, spillway and silt traps, re-routing of the existing earthen road among other site auxiliary works.

Cognizant of the safety risks posed by the abandoned works, we engaged the local and ward administration to inform and sensitize the general public to keep away from the site. The Department has also written to the NIA to provide further information on the implementation of the project including undertaking urgent measures to fence off the site to avert the safety risk.

Departmental Findings

The following were the findings from the site visit made on 15th April 2024:

1. The construction site lacked project signage and fencing and was unmanned.

2. The water pan was desilted and excavated further to an estimated depth of 4 metres with the excavated material deposited to form a berm approximately 8 metres wide. However, it was evident the deposited materials were not well compacted due to presence of cracks and fissures. The bottom of the pan constituted loose soft rock and gravel layer which is highly permeable to hold water for prolonged periods.
3. The embarkment of the pan was not well compacted/stabilized with evidence of erosion.
4. The two silt traps were excavated but lacked riprap for erosion control. Both of them were filled with surface water but had not been fenced.
5. The main inlet channel was crossing the existing Mwaranginyi-Landi earthen road posing major safety risk to pedestrians and motorists.
6. Excavation for spillway channel was done without stone pitching.
7. Abstraction structures are yet to be constructed.
8. Existing water trough is not operational due to diversion of the outlet works.
9. Community reported to have not been involved in the project from inception and a community project management committee was not in place.

Departmental recommendations and proposed remedial measures

1. There should be provided for game proof fence for the site to secure silt traps, water pan and outlet structures.
2. The existing Mwaranginyi-Landi road should provide for re-routing of the existing road away from the facility and provide appropriate drainage facilities. The embarkment walls should be stabilized to prevent soil erosion on both sides.
3. There should be improved and provided for, additional inlet channels from the catchment area to a slope not exceeding 1% to avoid high flow velocities and erosion and collect maximum runoff in the catchment. The inlet channels should be protected against erosion by providing riprap or as directed by the engineer.
4. The spillway should provide for spill way erosion protection works to include riprap or as shall be directed by the engineer.
5. The silt trap should provide for riprap/erosion protection works between the silt trap and the water pan.
6. The outlet structures should be repaired and improved as necessary.
7. The draw off/diversion should be provided for as necessary.
8. Other minor repairs or site auxiliary works should be undertaken as necessary.
9. The County Government Department of Water, community and all other key stakeholders should be fully involved during project preparation and implementation.

The committee during its site visit on 15th May 2024 observed the following:

1. The water pan poses high risks to both people and animals as it adjacent to the road and it is not fenced.

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2. The NIA whose office is based in Nairobi was the implementor of the project. However, the contractor, through the authority did not involve the County Government through the said relevant departments above during execution of the project.
3. The County departments of Water and Agriculture, local administration and residents were not involved since the onset of implementation of the project as no public participation was conducted prior.
4. The project is located along the Kenya Railways way leave and might raise conflict with the corporation in the near future if the railway line is to be revived.

Committee recommendations

1. The Water Department should follow up with the NIA so as to get more information on the project.
2. The Water Department should plan a public participation forum with residents to discuss effects of the water pan and find a way forward.
3. The water pan should be backfilled as it poses a security hazard to the neighbouring homesteads especially during heavy rains.
4. The implementing authority should consider relocating the water pan to a more appropriate location so that it can benefit the targeted residents.

That is the response. Thank you, Mr. Acting Speaker.

The Acting Speaker: Statement seeker, Hon. Joseph Kennedy, is the response sufficient?

Hon. Joseph Kennedy (MCA, Mwatate): Thank you, Mr. Acting Speaker, Sir. The response is not 100% sufficient, as the final Committee's recommendations say that the water pan should be backfilled as it poses a security hazard. The water pan has been used by the residents of Landi Maili Kumi for many years. It has really helped them especially in times of drought as their livestock have also been using the same water. Since the water pan was expanded, we experienced some rains a few months ago but unfortunately, there is no water in that pan as a result of the works by the contractors who expanded the pan. Hon. Brayson Mwambi and his Committee said in their last recommendation that the water pan should be backfilled but I think the Committee and the Department should come to Landi, Maili Kumi and hold public participation. If the public accepts the proposal, then well and good. Thank you, Mr. Acting Speaker.

The Acting Speaker: Your response, Chairperson of the Committee on Water and Irrigation Services.

Hon. Brayson Mwambi (MCA, Sagalla): Thank you, Mr. Acting Speaker, Sir. We visited the site together with the area MCA and he also witnessed what has been done so far on the water pan. I concur with him and as per the recommendations from both the Department and Committee, we

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will follow up and conduct public participation with all the stakeholders and get a way forward together, because there are other factors which may hinder the ongoing project. That place is within the Kenya Railways Corporation way and in future, it might raise conflicts with the Corporation. Once we conduct public participation, we will get a way forward and maybe direct the NIA to relocate the water pan. Otherwise, I concur with the area MCA; we shall conduct public participation. Thank you, Mr. Acting Speaker.

The Acting Speaker: Give us commitment of the timeline.

Hon. Brayson Mwambi (MCA, Sagalla): I request to be given 14 days from today.

The Acting Speaker: In 14 days, you will be coming back to the House?

Hon. Brayson Mwambi (MCA, Sagalla): Yes.

The Acting Speaker: Statement seeker, is the response sufficient?

Hon. Joseph Kennedy (MCA, Mwatate): Thank you, Mr. Acting Speaker, Sir, 14 days are sufficient; I have no problem. Thank you, Mr. Acting Speaker.

The Acting Speaker: Next is a progress Report on the status of Banana Processing Plant.

STATUS OF BANANA PROCESSING PLANT IN TAVETA SUB-COUNTY

Hon. Crispus Tondoo (MCA, Bomeni): Thank you, Mr. Acting Speaker, Sir. I beg to give a progress report on the status of Banana Processing Plant in Taveta sub-County. The Statement was sought on Tuesday, 30th April 2024, afternoon Sitting no. 033 by Hon. Sakina Kusania, the Chairperson of the Committee on Gender and Culture. The Committee through the Office of the Clerk wrote to the Department of Agriculture, Livestock, Fisheries, Irrigation and Blue Economy on the subject matter vide a letter dated 30th April 2024 Referenced: TTCA/ADM/3/22/VOL.3 (100).

The County Executive Committee Member (CECM), in charge of Agriculture, Livestock, Fisheries, Irrigation and Blue Economy responded vide a letter dated 6th May 2024 Referenced: AGRI/TT/ASSEMBLY/VOL.2/122.

The Committee having analysed the response from the Department hereby submits its response as follows:

The project commenced in May 2019 under the funding of the European Union (EU) and the County Government of Taita Taveta at a cost of Ksh. 116,576,350. The breakdown was as follows:

The EU was supposed to contribute Ksh.110 million while the County Government of Taita Taveta (CGTT) was supposed to contribute Ksh. 6, 576,350. As noted by Hon. Kusania, the project stalled at 70% completion status.

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1. What plans does the County Department have in reviving the project?

The cost of project has escalated due to time difference from project inception to date. There was also failure by the CGTT to make the counter-part funding and therefore the EU did not make their final tranche towards the completion of the project. Considering the budgetary constraints of the Department, it sought partnership under Public Private Partnership (PPP) model. The Department approached the Orana Fresh Fruit Processing Company Limited as a private investor to complete and operationalize the Banana Processing Plant. A draft Memorandum of Understanding (MoU) was developed and the same was reviewed by the County Attorney office to ensure the interests of the people of Taita Taveta are safe guarded.

The MoU is a roadmap towards the private investor entering into a lease agreement with the CGTT to operationalize the Banana Processing Plant at the expense of the private investor and the CGTT earning lease fees from the facility. Upon the completion of the Banana Processing Plant, the facility will have capacity to process bananas, arrow roots, cassava and sweet potatoes.

2. How soon can the project be completed considering a good amount of money has already been spent on the project?

The Department has envisaged that the project will be completed within a reasonable time-frame after finalizing the MoU, lease agreement and handing over of the project to the private investor.

3. What are the challenges faced in implementation of the project?

- i. The main challenge in the implementation of the project was cost escalation due to time difference between the time of project inception to date.
- ii. The failure by the CGTT to make the County contribution to trigger the release of the last tranche of funds from EU.
- iii. Minimum budget allocation for the Department towards completion of the project.

Committee's way forward;

In light of the above response, the Committee on Agriculture, Livestock, Fisheries and Blue Economy, plans to visit the Banana Processing Plant with the approval of the Liaison Committee which will inform a thorough and satisfactory response on the Statement sought.

Thank you for giving me the opportunity to give a progress report on the Statement sought by Hon. Sakina Kusania. Thank you, Mr. Acting Speaker.

The Acting Speaker: Statement seeker, is that progress report sufficient?

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Hon. Sakina Kusania (MCA, Nominated): Ahsante sana, Mhe. Kaimu Spika. Kusema ukweli kutoka rohoni mwangu, bado sijaridhika na majibu hayo. Kama alivyosema, wanapanga kutembelea hicho kiwanda. Niliitisha Kauli hii hapa Bungeni mwezi wa nne kabla hatujaenda kwa mapumziko. Miezi mitatu au minne imepita na bado hawajatembelea hicho kiwanda na wanasema ndio wanapanga kuenda.

Ninakumbuka tarehe kumi na saba mwezi huu, tulikaa katika Kamati ya *Liaison* na ikapitishwa watembelee hicho kiwanda wajue kimefikia wapi. Tulipokuja hapa Bungeni tulikuja na mambo matatu, kutunga sheria, uwakilishi na uangalizi. Katika uangalizi vile vile, tunatakiwa tuwe na uwajibikaji. Ninaomba

tuweze kuwajibika kwa pamoja na watembelee hicho kiwanda ili wapate majibu kamili.

Katika Kauli hiyo niliuliza kuhusu Kiwanda cha Mchele. Majibu yake bado sijayapata na pia ninaomba watembelee kiwanda hicho ili waweze kuleta majibu yaliyo sahihi katika Bunge hili ili mkulima wa eneo hilo awe na matumaini. Mkulima wa eneo hilo amekuwa na matumaini ya muda mrefu kama mchimba madini, analima akijua atapeleka wapi dira yake lakini bado hajapata. Ninaomba Kamati ziwajibike ili Kauli zikiletwa hapa ziwe za kweli na haki hata mwananchi akizipokea pale anaridhika. Kwa hayo machache, ninarudia kusema kwamba, sijaridhika na hayo ndiyo majibu yangu. Ahsante, Mhe. Kaimu Spika.

The Acting Speaker: Hon. Crispus Tondoo, give us a commitment.

(Laughter)

Hon. Crispus Tondoo (MCA, Bomeni): Ahsante sana, Mhe. Kaimu Spika, kwa kunipa nafasi hii ya kipekee ili niweze kujibu kama inavyotakikana au kwa ufasaha. Mhe. Sakina Kusania ana kila sababu ya kutoridhika na ripoti endelevi tuliyotoa. Ningependa kulifahamisha Bunge hili na yeye akiwa mmoja wao, tumekua na majukumu kadha wa kadha ndio sababu majibu haya hayajakuja kwa wakati unaofaa. Yote tisa, kumi tunahakisha kwamba jinsi tulivyomba na kama ingekua ni kwa idhini yangu ningekua nishamfikishia majibu nyumbani kwao kwa sababu ninaishi Taveta na sisi in majirani.

Kuna mikakati ya Bunge hili na unavyoelewa ni kwamba hakuna Kamati inaamka na kuondoka kuenda kufanya kazi zake, mpaka tupatiwe idhini ya kuenda kufuatilia mambo ambayo yako nje ya Bunge hili.

Kwa baraka zako, na ninajua wewe ni mwingi wa baraka na neema na hupendi mahali popote pale pawe na dosari, nina imani ya kwamba kwa sababu kijiti hicho ulimpokeza Mwenyekiti wa Kamati hii, sijui yeye ana sababu gani yakutufanya tusiende Taveta kuhakikisha ya kwamba Viwanda vya Ndizi na Mchele vimeleta majibu yanayotakikana haraka iwezekanavyo.

Yote tisa, hatujafanya dhahaka wala kumchelewesha Mheshimiwa huyu kwa sababu ya yale ambayo alikua amenena bali ni majukumu ya Bunge hili. Ninavyojua ni kwamba mtatupatia fursa ya kuenda, kama jinsi Kamati imeomba hapa, na tutahakikisha ya kwamba, chini ya siku 13 tutakua tumeleta majibu ndani ya Bunge hili. Ninatumaini ya kwamba na yeye atakua ameridhika kwa sababu wakati tutaenda huko tutamualika ili naye awe mmoja wetu. Ahsante kwa kunipa fursa ya kutoa jawabu ambalo nina imani limekua salama rohani mwake. Ahsante, Mhe. Kaimu Spika.

The Acting Speaker: Honourable Members, that was a good engagement. It might invalidate some of the questions asked pertaining to that particular part on Statements and the Chairperson so directs that, within 14 days, the Committee on Agriculture, Livestock, Fisheries and Blue Economy should have brought back, not a progress report, but a complete response on the Statement sought concerning the Banana Processing Plant as well as the Rice Milling Plant. I understand they are located around the same place and the Committee can work on the two Statements consecutively.

Within 14 days, we need a comprehensive response from the Committee on Agriculture, Livestock, Fisheries and Blue Economy being Chaired silently by Hon. Crispus Tondoo now that the substantive Chairperson is assuming other roles. That notwithstanding, it should not be misconstrued otherwise. Next response.

Hon. Anisa, there is a progress report, actually we have two, start with the first one.

OWNERSHIP STATUS OF THE INSPECTION PLOT IN SOFIA AREA, VOI SUB-COUNTY

Hon. Anisa Mwakio (MCA, Nominated): Thank you, Mr. Acting Speaker, Sir. I beg to give a progress report on the Statement sought by Hon. Azhar Din, the area MCA for Kaloleni Ward, on the ownership status of the inspection plot in Sofia area, in Voi sub-County, on behalf of the Committee on Lands and Human-Wildlife Conflict Resolution.

The Committee on Lands and Human-Wildlife Conflict Resolution responded on the Statement on the Floor of this House on Wednesday, 4th October 2023 morning Sitting no. 061. The Committee had ruled out eviction by National Transport and Safety Authority (NTSA) as it was an injustice to Mwananchi. The Committee had resolved to visit the area and engage with the people to establish the most appropriate resolution for all parties involved.

The Committee on Lands and Human-Wildlife Conflict Resolution conducted a fact-finding visit to the area, Sofia Bona, on 22nd December 2023 and held a meeting with the residents.

The community wondered how the land belonged to NTSA which was established through an Act of Parliament on 26th October 2012, while the community has been in the area, with their grandparents having been there since 1936.

The following was observed:

1. It was noted that the notice for intention was not participatory.
2. Members noted that NTSA had not been paying land rates for the land they claim to be theirs.
3. It was also noted that search conducted by those who wanted to buy it showed the land belonged to the community and not government as narrated by Pastor Margaret.
4. The move by NTSA was emotive because they had never shown up until December 2023 when they came with eviction order and when all the Houses (National Assembly, Senate and County Assembly) were on recess.
5. It was suggested that the County Government should look for an alternative land for vehicle inspection. They wondered why large 28 tonnes vehicles come into Voi town on a seven tonnes road whilst there is land along the Voi highway fit for Vehicle Inspection.

The Committee resolved that a legal process be commenced so that the residents are not ambushed.

The Sofia Bona residents went ahead and filed a Petition on 22nd January 2024 in the Environment and Land Court at Voi, case number ELCLPET No. E001 of 2024.

The Petitioners were; Erestina Malemba Gadi, Raphael Mwawasi Zena, Priscilla Mkamsau Mwasaru and 49 others, who are residents of Sofia, Voi sub-County, Taita Taveta County.

The 1st Respondent was NTSA, a statutory body established through an Act of Parliament with the key objective of harmonizing the operations of key road transport departments and help in effectively managing the road transport sub-sector and minimising loss of lives through road crashes; and the 2nd Respondent was the Attorney General.

The Petitioners sought the following orders:

1. A declaration that, as a result of the long uninterrupted and continuous occupation of the land, the petitioners have acquired rights to own and occupy the land which is protected under Article 40 of the Constitution of Kenya (CoK), 2010.
2. An order of judicial review in the form of mandamus be issued compelling the 2nd Respondent to liaise with the relevant offices to carry out survey of the land and issue title deeds to the petitioners.
3. A declaration that the act of forceful takeover of the petitioners' land breaches the right to own property as guaranteed in Article 40 of the CoK, 2010.
4. Any other relief the court would be pleased to issue.

The petition had been filed seeking to address issues of historical land injustices. The petitioners have been in continuous occupation and they have acquired rights over the same and that the Respondents actions are in breach of their right to protection of property contrary to Article 40 of the CoK, 2010 and loss of economic and social rights contrary to Article 43 of the CoK.

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It was averred that, having occupied the land for 80 years, they deserve to be issued with ownership documents of the property and further that they had a legitimate historical injustice complaint which was lodged in the National Assembly and County Assembly.

The Petition was opposed by the Respondents on 12th March 2024 citing that the Petitioners had not demonstrated proof of the said land. They had not provided title to land or allotment letters. It was contended that the Petitioners can be compensated upon proof of ownership of the land but as it is, the intended project should be undertaken to enable its prompt completion.

On analysis and determination, Judgment was issued on Thursday, 19th July 2024.

The court issued the following orders:

1. That, in view of the fact that the petitioners have been in occupation of the suit land before it was set aside for public use by the 1st Respondent, the National Land Commission (NLC) is hereby directed pursuant to Article 67(2)(e) of the CoK, 2010 to investigate the Petitioners claim and make appropriate recommendations on their interest to the land and or their resettlement within 180 days.
2. That, pending compliance to order (a) above, there shall be no eviction of any party currently residing in the suit property as at the time of filing the petition.
3. Each party to bear own costs of the suit.

The Committee on Lands and Human-Wildlife Conflict Resolution, during its meeting held on Tuesday, 23rd July 2024, at the County Assembly Chambers, following the 180 days stay orders issued by the court, resolved to conduct a data collection visit to the area and establish the number of the people residing in the plots and the sizes of individual plots. This data will form part of the report which will be forwarded to NLC.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Statement Seeker, does the progress report suffice?

Hon. Azhar Din (MCA, Kaloleni): Thank you, Mr. Acting Speaker, Sir. Let me take this opportunity to thank the Committee on Lands and Human-Wildlife Conflict Resolution led by their Chairperson, Hon. Anisa Mwakio, for a wonderful job. In simple words, I am more than satisfied with the response. Thank you, Mr. Acting Speaker.

The Acting Speaker: It is encouraged that all committee chairpersons to be giving such comprehensive progress reports while also observing time. Well, let us proceed to the next progress report still from the Chairperson of the Committee on Lands and Human-Wildlife Conflict Resolution.

STATUS OF LAND OWNERSHIP OF MWATUNGE SEED FARM

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Hon. Anisa Mwakio (MCA, Nominated): Thank you, Mr. Acting Speaker, Sir. I beg to give a progress report on the Statement sought by Hon. Joseph Kennedy 17th April 2024 Sitting no. 025.

The Committee, through the Office of the Clerk, wrote to the Department of Lands, Physical Planning and Urban Development on the same.

The CECM for Lands, Physical Planning and Urban Development responded vide a letter dated 23rd April 2024 Referenced: TTCG/LPPM/CECCORR/VOL.1/123; and responded as follows:

As per site visit and due diligence, the land is still contested via an appeal to the CECM though in the Department's records, it is still captured as a public land registered in the Modambogho adjudication section as parcel number **980**. The land is under the Taita Taveta County Council, reserved for Mwatunge Seed Farm. It is disputed by Lawyer Mwanisha Shariff's family with new developments of a mud house, water pan and existing renovated house which was built by Danish International Development Agency (DANIDA) then.

It is prudent to note that any extensive developments within the parcel of land by any concerned party is prohibited until the matter is resolved.

The Committee on Lands and Human-Wildlife Conflict Resolution conducted a site visit at the farm on Friday, 19th July 2024 accompanied by officers from the Lands and Agriculture departments and held a meeting with Mwatunge residents.

It was observed that:

1. The seed farm was used as a demonstration farm for training of farmers since 1980s.
2. The Seed farm was initially 50 acres but on the current map of 2020 plot no. 980 which is the seed farm is 17 acres.
3. The Committee found that the private developer went ahead and erected a gated fence despite prohibitions against development on the farm, immediately the County Assembly Committee on Agriculture, Livestock and Fisheries left after they had visited the farm on 16th April 2024.
4. There is an issue of insecurity since the private developer has installed two farm boys who threaten school going children using the path near the farm and also the community who use the area as a meeting ground since it is a public utility.
5. The Mwatunge Seed Farm Committee and residents of Mwatunge had had several land cases concerning the farm with the private developer at the Lands and District Commissioner's Office which they won in all occasions. All the minutes concerning Mwatunge Seed Farm details on its history and land cases outcome are available in Mwatunge Seed Farm file in the Department of Agriculture, Livestock, Fisheries and Blue Economy.

The Committee resolved:

1. To issue a directive to the CECM for Agriculture, Livestock, Fisheries and Blue Economy to submit the Mwatunge Seed Farm file at the County Assembly.
2. The Department of lands should do due diligence concerning the title deed of the seed farm.

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3. The Committee shall invite and accord Lady Justice Mwanaisha Shariff hearing concerning the area in dispute.
4. The residents whom had been threatened with pangas to file their complaints at the police station.

It is worth noting that Lady Justice Mwanaisha Shariff stormed and disrupted the ongoing meeting. The Committee reported the same at Mwatate Police Station. Thank you, Mr. Acting Speaker.

The Acting Speaker: Hon. Joseph Kennedy is the response sufficient?

Hon. Joseph Kennedy (MCA, Mwatate): Thank you, Mr. Acting Speaker, Sir. First, I would like to thank the Chairperson and the Members of the Committee on Lands and Human-Wildlife Conflict Resolution for the good work done so far. I am satisfied with the response but I would like to add that they should speed up on the matter. As they have stated, while we were there, the Lady Justice Mwanaisha Shariff stormed and disrupted our meeting. I also want to inform this Honourable House that, we also have two gentlemen who have, at many times, chased residents with pangas. This seed farm was started in the 1980s; meaning the Merry land community has been holding its meetings on that piece of land since then. As we speak, the community cannot conduct any meeting in that place because of the two gentlemen with pangas.

I am begging the Committee on Lands and Human-Wildlife Conflict Resolution to speed up on this issue so that the Merryland community gets the justice they deserve. I am satisfied with the response. Thank you, Mr. Acting Speaker.

The Acting Speaker: Hon. Anisa Mwakio, give us commitment on when you will come back with a comprehensive report, now that this is a progress report.

Hon. Anisa Mwakio (MCA, Nominated): Thank you, Mr. Acting Speaker, Sir. First of all, I want to thank the House leadership for the support they have accorded the Committee on Lands and Human-Wildlife Conflict Resolution whenever they want to go out and do their job as assigned.

Secondly, I want to thank the area MCA, Hon. Joseph Kennedy for moving with speed to make sure what belongs to the community remains with the community. We had a happening of this kind in Voi involving two widows who were being by evicted by the same Lady Justice Mwanaisha Shariff from their ancestral land. They were intimidated and threatened at gun point, the lady used the Voi Police station to do all this but the residents stood firm.

I would like to seek the leave of this House, if the Committee on Lands and Human-Wildlife Conflict Resolution can reach out to the first case, interrogate it and involve the affected so that when we are doing the report, we do conclusive reports for both Mwatate and Voi. This is because they are similar and done by the same person.

Because we will be involving the parties from Voi, I request for 14 days for the Committee to report back to the House. Thank you, Mr. Acting Speaker.

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The Acting Speaker: 14 days it is. Yes, Hon. Peter Shambi, the Chairperson of the Committee on Implementation. What is it?

Hon. Peter Shambi (MCA, Nominated): Thank you, Mr. Acting Speaker, Sir. I would like to add my voice on this particular issue. I stand here as a very sad Kenyan this afternoon. This progress report has renewed my wounds as a son of this County. I sit in the Committee on Lands and Human-Wildlife Conflict Resolution as a member and I am also a son of Mwatate Ward where this particular piece of land is situated. I happen to have a small understanding of the history of this land and that is subject to the conclusion of the report that is under investigation.

I stand here to highlight an incident that happened when the Committee on Lands and Human-Wildlife Conflict Resolution went for a public hearing on the said land. A very unfortunate incident happened which involved a Judge of the High Court, the so-called Lady Justice Mwanaisa Shariff. It is assumed that this lady went to School of Law and indeed she is a lawyer and in the process that is how she found herself in the Judiciary as a high court judge. I highly doubt whether when she went to school and understood the law. She has the audacity to disrupt a Parliamentary Sitting of an Honourable House like this one. It is shameful and I want to take this opportunity to condemn that incident in the strongest terms possible. We cannot have a state officer coming to interfere with the Business of this Honourable House, where the Assembly was listening to its citizens. It is a shame. It is an expression of lack of integrity. It shows serious and utter ignorance of the law from this particular officer. From this Floor today, I want to communicate this to Taita Taveta residents with similar behaviour. The other day it happened in Mswambweni and it was an outsider. Today, it is happening right at our doorsteps and to make matters worse, it is the son of our own daughter who uses the Provincial Administration and goes to intimidate the locals only because she is trying to grab a 17-acre piece of land. It is shameful and I would like to call upon the Assembly to take the action and notify the Judicial Service Commission (JSC).

We saw a Deputy Chief Justice pinching someone's nose and she was bundled out of office. What this lady did is worse than Nancy Baraza's action which cost her job. If anyone is listening, somebody needs to act through the JSC. This lady needs to be out of office. She should be bundled back to the Kenyan School of Law, to learn the law and understand that the County Assembly has a responsibility to transact its Business without interference from any person or any citizen of any stature or form within or without. We are praying that this matter does not end here. If she is found culpable, the land should be recovered and she should compensate the local citizens for the trauma she has caused through intimidation. She should be made to pay for the sins. Over and above, she should be bundled out of that office. If we do not stop her in her tracks today, she will keep interfering with the business of other people elsewhere. Therefore, she should be used as an example of bad citizens, officers and people who do bad things to their own citizens. Thank you, Mr. Acting Speaker.

The Acting Speaker: Honourable Members, the Chair is equally briefed of the incident that took place at that particular day and place. It is good for the purpose of information to everyone in the public domain, to understand the powers bestowed to the County Assembly of Taita Taveta under Article 195 of the Constitution of Kenya, 2010, which states that; a County Assembly or any of its

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committees has power to summon any person to appear before it, for the purpose of giving evidence or providing information.

For the purpose of clause one above, an Assembly has the same powers as the High Court to:

- a) Enforce the attendance of witnesses and examining them on oath affirmation or otherwise
- b) Compel the production of documents
- c) Issue commission or request to examine witnesses abroad

Within the Powers, Privileges and Obligations Acts, the Chair so directs that, the Committee on Lands, Human-Wildlife Conflict Resolution proceeds within the 14 days and comes back with a full report on the particular parcel of land. Therefore, upon indeed establishing the full facts on that parcel of land, particularly of ownership, then the Chair shall give further directions as per the indecent actions that were perpetrated upon an Assembly Committee which was undertaking its constitutional mandate by a single person or either his or her agents. The Chair so directs. Next Order.

COMMUNICATION FROM THE CHAIR

INVITATION TO A PRESIDENTIAL VISIT BY HON. PETER MBOGHO SHAKE

The Acting Speaker: Honourable Members, the Chair is also in receipt of an invitation letter from Honourable Peter Mbogho Shake, Member of Parliament (M.P) for Mwatate Constituency, to all Members of Taita Taveta County Assembly to a presidential visit. I am pleased to invite you to join us for the visit of H.E the President William Samoei Ruto at Mwatate Constituency on Sunday, 28th July 2024. The President will attend a church service at ACK St. Peters Bura at 10:00 a.m., followed by a brief function at Bura Station. Your presence will be highly appreciated. Yours faithfully, Honourable Peter Mbogho Shake M.P, Mwatate Constituency.

ADJOURNMENT

The Acting Speaker: Honourable Members, there being no other business, the House stands adjourned until Tuesday, 30th July 2024 at 9:30 a.m.

(The House rose at 4:04 p.m.)