

SIAYA COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly- Third Session

Thursday, 26th February, 2015

The House met at the County Assembly Chambers at 2.30 p.m.

[The Deputy Speaker (Hon. Adera) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Deputy Speaker: Hon. Members, as you are all aware that last week there was a court judgment on our budget ceilings that has been in court for quite a number of months. Last week on Friday, there was a judgment and the Office of the Speaker together with the Speaker's Panel are studying the judgment and there will be a communication to the whole House in the coming week. Thank you.

Next Order!

PAPERS

Hon. Apiyo: Mr. Deputy Speaker, Sir, thank you for giving me this chance to lay on the Table of the House:-

The Report of the Committee on Roads, Public Works, Transport and Communication on the Tendering Process for the FY 2014/2015 as it was on the County Government Website for adoption,

Hon. Deputy Speaker: Alright, you are allowed to Table the Paper or the document.

(Hon. Apiyo laid the document on the Table)

Hon. Deputy Speaker: Next Order!

STATEMENTS

Hon. Onduru: Mr. Deputy Speaker, Sir, I would like to give a Statement, but if you look at the Order Paper, they are two, (a) and (b), but it is only one Statement. Mr. Deputy Speaker, I would like to give my Statement on refuse removal, refuse dumps, solid disposal function of the Health Service. Control of air pollution, noise pollution and other public nuisances and outdoor advertisements.

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Mr. Deputy Speaker, I wish to draw the attention of this House that, the Fourth Schedule of the Constitution of Kenya, 2010, Part 2, County Government provides that, health, County Health Services functions and powers are:-

1. County Health Facilities and Pharmacies
2. Ambulance Services
3. Promotion of Primary Health Care
4. Licensing and Control of undertakings that sell food to the public
5. Cemeteries
6. Refusal Removal, Refuse Dumps and Solid Waste Disposal

AWARE THAT, functions of refuse removal, refuse dump and solid waste management has been delegated to the Ministry of Environment, Water and Irrigation,

FURTHER AWARE THAT, the Fourth Schedule of the Constitution presided that the following functions be carried out by the Ministry of Water, Environment and Irrigation implementation of specific National Government policies on Natural resources and Environmental conservation under paragraph 10,11and 12.

11. County Public Works and Services including
 - a) Storm water management systems in built up areas
 - b) Water and Sanitation.

FURTHER AWARE THAT, article 185 (2), 186 (2) and 187 (2) Fourth Schedule, Constitution of Kenya, 2010 and article 185 (2) states that; A County Assembly may make any Laws that are necessary for, or incidental to the effective performance on the functions and exercise of the powers of the County Government under the Fourth Schedule.

Article 186 (1) states that:-

- Except as otherwise provided by this Constitution, the functions and powers of the National Government and the County Government respectively are set as out in the Fourth Schedule.

Article 187 (2) states that:-

- If a function or power is transferred from a Government to one level or to a Government at the other level;
 - a) Arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise or the power are transferred and
 - b) Constitutional responsibility for performance of the function or exercise of the power shall remain assigned by the Fourth Schedule.

Mr. Deputy Speaker, Sir, refuse removal, refuse dumps and solid water disposal is a function of County Health Service. Transferring this function to Ministry of Water, Environment is a violation of the Constitution as provided under Fourth Schedule and Article 185 (2), 186 (1) and 187 (2) cited above.

Mr. Deputy Speaker, Sir, I wish to request for a Statement from the Executive on the following:-

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1. Why they ignored article 185 (2) and 186 (1).
2. Does the Ministry of Water, Environment and Irrigation have trained personnel to supervise and manage solid waste?
3. Why they violated the Constitutional provision.

Thank you, Mr. Deputy Speaker.

Hon. Deputy Speaker: As I look at your Statement, it is cross cutting, both on Health and Governance. Hon. Elisha, what are you murmuring about? What are you saying? Can somebody give hon. Elisha the microphone!

Hon. Elisha: Hon. Deputy Speaker, I am saying it is cross cutting, even environment services are included there---and that is why it is environment.

Hon. Deputy Speaker: Okay. It is cross cutting on many sectors but I want to direct that the same be handled by two Committees, you can have joint meetings in your deliberations. That is, Health and Governance. We can have a report in the next two weeks, I wish we had a dairy. We can have the report on the 12th of March. Hon. Chair for Health and Chair for Administration, are they both here? I can see Chair for Health, let's have this report on the 12th of March.

Next Order!

MOTION

Hon. Apiyo: Thank you, Mr. Deputy Speaker, Sir, once again. I want to move a Motion: -

THAT this House adopts the Report of Committee on Roads, Public Works, Transport and Communication on the Tendering Process for the FY 2014/2015 as it was on the County Government's Website, laid on the Table of this House today Thursday, 26th February, 2015. I would request my colleague hon. Booker to second.

(Hon. Minami stood to second)

Hon. Deputy Speaker: Before I propose the question, according to the copy that I have in front of me, I wish to inform Members that, your copies as they are stapled, you need to re-arrange them. I don't know whether you have realized that they are not properly arranged. You can go through it then you re-arrange them, preface should be page 2, of course the heading is page 1, page 3 is Committee Findings, then the page with the signature is page 4.

(Question proposed)

It is open for debate. Hon. Apiyo, you can take the microphone

Hon. Apiyo: Thank you, Mr. Speaker. The Report of the Committee on Roads, Public Works, Transport and Communication, concerning the Tendering Process for the FY 2014/2015 as it was on the County Government's Website, dated on 26th February, 2015.

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1.0 PREFACE

Mr. Deputy Speaker, Sir, on behalf of the Members of the Committee on Roads, Public Works, Transport and Communication, and pursuant to the provision of The Standing Orders No. 191 (5) (a) and (g), it is my pleasure and duty to present to the House, the Committee's Report on the status of Tender Documents for the Financial Year 2014/2015 on the County Government Website.

1.1 COMMITTEE MANDATE

Mr. Deputy Speaker, the Committee on Roads, Public Works, Transport & Communication is established under The Standing Order No. 192 and is mandated to oversight on all matters related to County transport, including County roads, street lights, traffic and parking, public road transport and ferries and harbors, excluding the regulation of International and National shipping and matters related thereto; County public works and services including storm water management systems in built up areas, firefighting services and disaster management.

1.2 MEMBERSHIP OF THE COMMITTEE

- | | | |
|-------------------------------|---|---------------|
| 1. The Hon. Benson Omondi | - | Chairman |
| 2. The Hon. Christopher Apiyo | - | Vice Chairman |
| 3. The Hon. Andrew Omwende | - | Member |
| 4. The Hon. Helida Atieno | - | Member |
| 5. The Hon. Murray O. Asewe | - | Member |
| 6. The Hon. Joannes Andiego | - | Member |
| 7. The Hon. Pamela Midumbi | - | Member |
| 8. The Hon. Pius Ombiyo Ogutu | - | Member |
| 9. The Hon. Edwin M. Otieno | - | Member |
| 10. The Hon. Booker Minami | - | Member |
| 11. The Hon. Margaret Olongo | - | Member |

1.3 BACKGROUND

Mr. Deputy Speaker, Sir, after myriad of complaints from members of the public and local contractors, regarding tender documents on the County Government website, this Committee after lengthy deliberations decided to call the County Director of Procurement, Mr. Tobias Oloo; to address the issue that formed the basis of these complaints. The main issues were;

- i. Merging of more than one project in one tender and
- ii. Delay in payment of contractors

3.0 COMMITTEE FINDINGS**I. Merging of more than one project in one tender**

The Director informed the Committee that in the previous financial year (2013/2014) his office together with that of the County Engineer faced two major challenges;

1. Delay in the completion of projects by contractors and,
2. Inadequate supervision of projects leading to poor quality of work

Due to the above mentioned, his office decided to adopt a new strategy this financial year. Thus they clustered projects and tenders in three categories as follows;

Cluster A	-	Ksh.2.5 Million and above
Cluster B	-	Ksh500, 000 - 2.5 Million
Cluster C	-	Ksh.1- Ksh.500, 000

The main reason for this clustering and subsequent merging of projects in cluster (A) tenders was to ensure that;

1. There would be a few numbers of contractors who could be easily supervised by the office of the County Engineer which is currently under-staffed.
2. The contractors who will be selected for these projects, especially in cluster (A) tenders, will be those with both financial and technical muscle to do quality and timely work.

The cluster (B) tenders were specifically targeted for women, youth and people living with disability from within the County. This also catered for local contractors who may not have a very big financial capacity thus alleviating the fear of locking out small local contractors. In addition, Cluster (C) tenders were targeted at groups from within the Wards where the respective projects were to be undertaken.

The main advantages for this new approach were;

1. Cost reduction; economies of scale dictate that when you have fewer contractors working on numerous projects, you save money.
2. Merging of projects results into fewer contractors thus easing supervision and ensuring quality of work done.

To further ensure that local contractors are taken care of, the Director informed the Committee that contractors from Siaya would be awarded 5 points during selection, this was to give them an advantage over the rest of the bidders from outside the County.

II. Delay in payment of contractors

Mr. Speaker Sir, delayed in payments was another major challenge affecting contractors. However, the Director informed the Committee that this was because in the previous financial year most contractors did sub-standard work and some did not even complete the projects, this made it difficult for the County Government to pay these contractors as the supervisors could not issue certificates of completion to the accounts office so as to facilitate timely payments.

This sub-standard work was pegged on the fact that most contractors who were selected for these projects had no technical expertise on construction and therefore compromised on quality of work done, further making it difficult for the County Government to pay.

The Director further informed the Committee, that the major reason why they ended up with quack contractors was due to a lot of political interference during the selection of contractors.

CONCLUSION

In a nutshell, the Director thoroughly addressed the issues of clustering of tenders and delayed payments of contractors in the previous financial year to the satisfaction of Members of the Committee, and there was a general agreement to have the tendering process continue. It was also agreed that the Committee will be informed on major policy changes to keep them in the know so as not to create anxiety.

RECOMMENDATIONS

- The office of the County Procurement Director ought to consult often with the Committee on change of policy that affects the electorate and especially sensitive matters such as tendering.
- The office of the County Engineer should employ more staff so as to ease supervision and facilitate faster payment of contractors.

Thank you, Mr. Deputy Speaker.

Hon. Deputy Speaker: Thank you. Hon. Muhulah!

Hon. Muhulah: Mr. Deputy Speaker, thank you, this afternoon. I want to thank the Committee on Works for the very good work that is working in our mind now. However, Mr. Deputy Speaker, I am a bit concerned by the decision by the public works through the tendering director of accepting or suggesting that all the projects be lumped in one tender document.

Mr. Deputy Speaker, we get that formerly, when the tenders were done individually, there was a very big challenge in executing these tenders and completing them in time and with quality. I wonder now what informed the mind of the Director of Procurement that they should put 3 or more projects in one tender document. In that capacity, the contractor will have it, let's say for example Mr. Deputy Speaker, there are some instances where you get 3 ECDEs put in one tender document Mr. Deputy Speaker. If formerly, completing one ECDE in time and with a very good and acceptable quality was challenge, I wonder how that is going to be easy for now.

Mr. Deputy Speaker, there is somewhere here where the Committee says that they had agreed with the Director of Procurement that the tendering process go on. Again, through your indulgence Mr. Deputy Speaker, I want you to make a clarification to me whether the Committee has powers to decide for this House or they go, get the information, then come and resolutions and deliberations are done in this House Mr. Deputy Speaker. This is the second time Mr. Deputy Speaker, we are having this. The first time we had it was when the Committee on Education was saying that they had accepted and agreed with the CEC that the system that they were using for the bursary was to go on. Now again, we are getting from the Public Works Committee that they had agreed at the Committee level that the tendering process, the way it was, was to go on Mr. Deputy Speaker. Is it the Committee that decides for this House or the work of the Committee is to gather information and bring a report to this House then resolutions are done Mr. Deputy Speaker?

Thank you, Mr. Deputy Speaker.

Hon. Deputy Speaker: Hon. Abayo!

Hon. Abayo: Thank you, Mr. Deputy Speaker, for giving me this opportunity. I rise to oppose this Motion. Mr. Deputy Speaker, why do I oppose this Motion? I want to start from the conclusion. The first statement is that the director thoroughly addressed the issues of clustering of tenders and delayed payments of contractors in the previous financial year, and the statement I have issue with is, '*to the satisfaction of the Committee*'. That the Committee is telling this House that they were satisfied with the explanation that the director did give, that is where I don't agree with them Mr. Deputy Speaker. Mr. Deputy Speaker, as my friend has mentioned, the reasons given for the cluster-- my brother has mentioned that up to date some of the contractors have not finished the work; it is well over a year! That within four months they want to do three major projects, Mr. Deputy Speaker. The reasons given; one is, there would be fewer contractors that could easily be supervised by the office. I don't agree with this.

The contractors supervise projects, so whether you give a contractor 3 projects, those projects have to be supervised independently. We don't supervise the contractor, we supervise the work, it is upon which we do a report Mr. Deputy Speaker. So, whether we have 600 projects, we will supervise 600 projects against 10 contractors, we will not be talking about supervising 10 contractors but supervising the 600 projects. Therefore for me, it does not make a difference, Mr. Deputy Speaker.

Again, the contractors that were selected, that they had the technical and financial capacity, this is being realized now. Mr. Deputy Speaker, there is an admission here by the director that the previous tendering process did not take this into account. The director is owning up to tell us and the Committee is getting convinced, I don't know whether the Members of this House will be convinced. That this was not done in the previous situation Mr. Deputy Speaker, I don't want to agree with this. It is not really the issue, we are talking about few engineers, what is their technical capacity? The engineers themselves who do this work, leave alone their capacity, we are talking about the inadequacy in terms of their numbers. What has been done to increase this number? Mr. Deputy Speaker, I even remember in the budget provision, we did put a pick up for this team, I don't know whether that pickup was bought --- one or two that would actually help in facilitating this. And I believe Mr. Deputy Speaker, that the director is not giving us the actual reasons that has caused this cluster.

Mr. Deputy Speaker, moving forward, and the Committee goes ahead to give us the advantages. Cost Reduction! The economies of scale! On whose side? Is it economies of scale to the County or to the side of the contractor, who is benefitting here? I think Mr. Deputy Speaker; there is a clear misrepresentation of facts here. One contractor more projects, the advantage is to the contractor or to the County? The Committee needs to tell us whose interest they are serving! Mr. Deputy Speaker, I don't want to agree with that. If you have 3 projects, it means you are giving more money to a few contractors, leaving out the lots of the residents of Siaya who may want to take the advantage.

Now, in the categorization, I want to agree that people who do not have the capacity should go with what merits them. But I don't agree that clustering is a solution, because there is

what we call in economics, 'primitive accumulation of wealth' and that could be in the fewer hands. Mr. Deputy Speaker, this is what we are fighting! We cannot take more money and put it in the fewer hands because they have the capacity.

(Applause)

We are impoverishing ourselves instead of leveraging opportunities where all and sundry have opportunities to make wealth and the County needs to give that opportunity. It is so clear to me, Mr. Deputy Speaker, that they are curtailing that particular process. Single contractors have not finished projects today; it is interesting that we would come up to support that.

Mr. Deputy Speaker, moving forward to page 3. That to further ensure local contractors are taken care of, the director informed the Committee that contractors from Siaya would be awarded 5 points during selection, this was to give them an edge over the rest. Well, I may be a lay person, I am a career teacher Mr. Deputy Speaker, but 5 points against what? We want a report that communicates, if the local contractors are being awarded 5 marks, against what? Other contractors are being given what? So, we expected a little bit of elucidation on this that we have some facts or comparison that we who did not sit in this Committee have the facts right.

Mr. Deputy Speaker, moving forward. On supervision, I wonder the role of the Project Management Committee at the grass root, because it is on the completion certificate that people are paid, they are giving this as a reason for the delayed payments! I am just wondering! The Committee should have also raised, what is the role of the Project Management Committee before payments are given, because, these are the immediate committees that supervise this work. Mr. Deputy Speaker, that for me is an area that needs to be looked at and the Committee should have brought the role.

But now, the mother of all of it. This substandard work was pegged on the fact that most contractors who were selected for these projects had no technical expertise on construction and therefore compromised the quality of work. Mr. Deputy Speaker, hon. Members, whom are we bending to? There is ownership that in the previous tendering process, these issues were not considered. Is it the Office of the Governor, which Executive, because this is the role of the Executive. They are owning up that there was no technical expertise. You therefore understand Mr. Deputy Speaker, why the projects were shoddy. They are taking ownership. Why did we pick on people who did not have the technical capacity? This is interesting, and the little bit of it is that they are owning up that they brought in quack contractors and this was due to political interference during the selection. Mr. Deputy Speaker, the Members seated here are politicians, who did interfere? Is it Members of this House? Our integrity plus others is in question! Who are these who interfered? And what evidence is there? Or somebody is just shifting the buck to others to say we failed and they want to bring in the hon. Members. Were we Members involved in the tendering process? Mr. Deputy Speaker, this for me is serious and the Committee needs to

give us more facts. How was the political interference? If Abayo was one of them, let it come out!

[The Hon. Deputy Speaker left the Chair]

[The Temporary Deputy Speaker (Hon. Madialo) took the Chair]

Let me finalize with the recommendations, Mr. Temporary Deputy Speaker. That the office of the County procurement director ought to consult often with the Committee on the changes of policy. Mr. Temporary Deputy Speaker, it is this House that approves policies. The Committee is endorsing that there was a change of policy but they are only pleading that a change of policy should have been shared with the Committee. If there was a change in the policy, did this House approve it? I would be happy to see a copy of that policy that was approved by this House, and if it was not, I have a question; who approved it? Mr. Temporary Deputy Speaker, I oppose this report in totality.

(Hon. Were and Hon. Okello stood up at their places)

The Temporary Deputy Speaker (Hon. Madialo): Sorry, hon. Uzima and hon. Okello just take your seats for a minute. Hon. Apiyo, even before you contribute, was this report written by the CEC in charge of roads or is it by your Committee?

Hon. Apiyo: Mr. Temporary Deputy Speaker, this report came from the Committee Members, not from the CEC. We invited the director of procurement and what he gave as his input, that is what we have reported on.

The Temporary Deputy Speaker (Hon. Madialo): I will give a ruling on whether or not it should have been debated in the first place, but let us hear the views of the Members. Hon. Uzima Were.

Hon. Were: Thank you very much, Mr. Temporary Deputy Speaker, Sir. The authors of this report remind me of the Biblical five ladies who were waiting for the bridegroom and when the hour beckoned, they realized that they had no fuel.

(Laughter)

It is gangrene---

(Laughter)

That is slowly eating the toe and eventually will consume the whole body. I really wondered when I was going through the report and I was asking myself what hypnotized the team. In medical practice, there is what we call somnambulism—

(Laughter)

That is sleep walking. You sleep, you walk and it is a sad practice. We are aware that there are quite a number of contractors who are collapsing under the weight of several projects that they were awarded and they are not able to complete. I wanted to give you an example of a contractor who was awarded projects worth Ksh. 15 million. That is Sports Fund. Upto date, the 30 Wards have not received the Sports items. 15 million! A contractor is not able to meet the contract and then we hear somebody is telling us that we accept this clustering. That it will enhance efficiency and quality. What madness! Am wondering whether this Committee is an appendage of the directorate of supplies office. We have given you the mandate to have above average performance, I am giving you D- (minus).

(Laughter)

I would urge this Assembly to reject this report in its entirety because we are giving a lee way to political contractors.

(Laughter)

Thank you, Mr. Temporary Deputy Speaker, Sir.

Hon. Temporary Deputy Speaker (Hon. Madialo): Hon. Walter Okello.

Hon. Okello: Thank you, Mr. Temporary Deputy Speaker, for giving me an opportunity to speak on the report that is receiving condemnation from the Members and I believe rightly so because of a number of reasons, some of which have already been pointed out by the previous speakers. But for me Mr. Temporary Deputy Speaker, my concern, one, is on the question that this Committee sought to address from the very beginning. On introduction, usually we expect that reports come as a way of addressing either a Statement from Members or a way of petition or a certain problem that the committee found on their own

Mr. Temporary Deputy Speaker, the report before us is really grey on what it's seeking to answer. The report starts by saying that, after myriad of complaints from members of the public and local contractors regarding tender documents on the County Government Website, the Committee decided to call one Mr. Tobias Oloo for deliberations, and the issues they said were; merging of more than one project in one tender and delay in payment of contractors. Mr. Temporary Deputy Speaker, it really does not help the Membership of this House by not telling us exactly what problem the Committee went out to address. So, Mr. Temporary Deputy Speaker, if we gave the Committee the benefit of doubt that the problem they had in mind was the merging of more than one project in one tender and delay in payment, we would expect Mr. Temporary Deputy Speaker, that the same compares with the recommendations.

I believe all of us we went to literature classes at various levels. We wrote compositions and we were taught that there is supposed to be certain coordination between what you have in the introduction and what you finally have in the conclusion Mr. Temporary Deputy Speaker. Reading what we call the introduction of the report and what you find in the recommendation,

the divergence really leaves one wondering if the Committee by the time they were finishing the recommendations, they were still on the same problem course that they started with. Just on that account alone, the report does not satisfy the main basic level of a report. We have seen reports in this House and Mr. Temporary Deputy Speaker; we are not in the trial and error period of legislation in this County.

However, Mr. Temporary Deputy Speaker, I would wish to tell my colleagues that we are running the risk of getting confused in our roles. We saw this yesterday with the Committee on Agriculture report and we are seeing this today, where issues that were supposed to come as statements from the CECs, which have facts as they are- and I commend the Committee on roads for bringing the facts as they are from the CEC. But, Mr. Temporary Deputy Speaker, when this comes as report from the Committee, then as a House we are forced to reject them. So, Mr. Temporary Deputy Speaker, I think it will be important to clarify to committees, all of us collectively, through trainings or through whatever means possible, so that we are able to differentiate what we present as Committee reports and what we present as facts found from interactions with CECs.

Finally, Mr. Temporary Deputy Speaker, I would want to raise an issue with the version by the director that cluster B tenders were specifically targeted for women, youths and people living with disability within the County as a way of catering for local contractors who may not have very big financial capacity, thus alleviating the fear of locking out small contractors. Mr. Temporary Deputy Speaker, if we adopt this report with this kind of reasoning, Siaya County will go down in history as one of the most *jua kali* run Counties out of the 47. Mr. Temporary Deputy Speaker, with the kind of Membership and the capacity we are seeing here, if we allow ourselves to associate with the kind of reasoning that is coming from the director, then come five years down the line, the legacy that we are going to leave in this County will be more than shameful. I wish I got the right word that the Hon. Were used; it is a very technical one—

(Laughter)

I didn't get it right, but if I got it right I would have applied it here Mr. Temporary Deputy Speaker.

It is a lie, it is imaginary, it is total hogwash Mr. Temporary Deputy Speaker, to imagine that if you cluster projects, Kshs. 500,000 - 2.5 million that you want the youth whom you have refused to get a Youth Fund to get capital kitty from which they can access capital, women whom you have refused to train-- this County Government of Siaya has deliberately failed to capacity build the women of Siaya to be able to do tenders. This County has deliberately failed to capacity build the youth of Siaya County to be able to do tenders. Tenders are reserved for cronies; tenders are reserved for certain retirees who have camped at certain headquarters.

(Applause)

The tenders are reserved for people who can carry buckets of fish and carry sheep and goats in exchange for tenders Mr. Temporary Deputy Speaker. If we associate with this report Mr. Temporary Deputy Speaker, we shall be validating rottenness

So, Mr. Temporary Deputy Speaker, I want to sit but I beg your guidance. We are not condemning the Committee on Roads, we are not condemning the Committee on Agriculture, we want a clear guidance on what to present as statement report and what to present as facts and the recommendations of the Committee which should be a culmination of research, of counter checking facts with what is on the ground and what is on paper.

Thank you, Mr. Temporary Deputy. I reject this report.

(Applause)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Agoko!

Hon. Agoko: Thank you. Mr. Temporary Deputy Speaker, Sir, as a victim of circumstances, I would be the last person to reject this report.

Mr. Temporary Deputy Speaker, as a matter of fact, I don't have any problem with the Committee and I don't have any problem with the way they have done this. But, Mr. Temporary Deputy Speaker, I have a lot of problem with the policy, I have a problem with the conduct, the way activities are done. For this House to adopt this report, we will be turning ourselves into a lynch ball of Siaya County. We could be lynched by the residents of Siaya who would be aspiring to do business. Mr. Temporary Deputy Speaker, it will be unfortunate and it is unfortunate that the gap between the rich and the poor is widening and in this regard the County Government of Siaya is widening it at a very high speed. Because, if we subject 90% of the residents of Siaya who may not be able to do a Ksh. 10 million job, we knock them out because we are clustering these projects. We shall be impoverishing as many people and enriching quite a few. The multiplying effect in economics just like hon. Abayo has put it shall not have been met and we need to accelerate the multiplying effect to the economy so that we also accelerate the growth in Siaya County.

Mr. Temporary Deputy Speaker, as hon. Were put it, it would be gangrenous that the residents of Siaya may end up not having any money. As of now, Mr. Temporary Deputy Speaker, I want to say that the kind of contractors who will be doing this work will not be the residents of Siaya. You could have heard it over the radio the other day when the residents of Sindindi Ward were on air; criticizing hon. Agoko for allowing contractors from Mt. Kenya region to do some work in Sindindi Ward. Mr. Temporary Deputy Speaker, you know the people who do this and as a matter of fact, it has been explicitly explained here that the technical expertise of the contractors who were given work was highly questionable, it was below standard, was below bar. Mr. Temporary Speaker, I would lack any other better way to express it but it was unfortunate and it is unfortunate that some of the contractors who were given work in my Ward are yet to complete it to date. The very small jobs that they were given, they are yet to complete and now if you cluster these, you merge them and give one contractor 20 jobs or 10

jobs, Mr. Temporary Deputy Speaker, then it means that by the end of the financial year Siaya County shall have not done anything or very little shall have been done.

Mr. Temporary Deputy Speaker, this change of policy, that contracts be clustered and merged together, I don't know from what --- that the policy was made. And I want to say that in terms of hierarchy, I am failing to know whether it is the director of procurement or who makes the policy? I tend to believe that this is the House that generates policies for the County Government. And in this regard Mr. Temporary Deputy Speaker, I beg to disagree with the policy that jobs be merged together to the tune of 10 million, 15 million and given to one contractor. Assume that one contractor has been given 10 or 5 of such contracts as it were in the financial year 2013/2014; it means that 80% of a lot work shall have been given to one or two people.

Mr. Temporary Deputy Speaker, the capacity of the contractors. It is indicated here that some of them lacked capacity. How was it done in 2013 that they did not give the job to contractors with capacity! If these people lacked capacity, what would happen to make them to now have capacity to do 10, 5, 6, 7 jobs? Mr. Temporary Deputy Speaker, I beg to disagree with this report and call for its rejection. Thank you.

(Applause)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Zilpa!

Hon. Awino: Thank you, Mr. Temporary Deputy Speaker. I want to join my colleagues in raising issues against this report, particularly this issue of clustering. I think clustering is going against the spirit of devolution, because devolution means, that these resources should trickle down to the grass root, to the village, so that the common mwanainchi can enjoy the fruits of the resources that are now available from the National Government and other revenues that are being collected in this County. Now, when you cluster them, you give people who have money the advantage of dominating, such that in another 3 years we shall have 100 millionaires in Siaya and over 900,000 beggars in this County. I think that is not we are working towards. We want to have a fair society. What is happening here is not fair, because these very people, come the next tenders, these people who have already got tenders in this cluster, are the same people who are going to get these money. Now, how fair is it when those who need this money are not being helped to get it? I think there is need for those concerned to ensure that the money also gets into the hands of women. The cluster that was given to women, you could see that it was just upto- I think Kshs. 500,000. But one wonders whether even those projects really went to those same women. There must be transparency and accountability. We ought to know who these people who are given these tenders are. Otherwise, we are just going to be taken for a ride, and we are being taken as if we don't have brains and we don't have eyes to see.

There is something wrong and I join others in saying that this report should be rejected. Not because the Committee has not done their work, but from where we have got this

information, things are not right. Let's have fairness hon. Temporary Deputy Speaker. Thank you.

The Temporary Deputy Speaker (Hon. Madialo): Hon. Zilpa, you have not said whether you want the report rejected or---

Hon. Zilpa: Thank you, Mr. Temporary Deputy Speaker. I think, following what I have said, the report should be rejected.

Hon. Temporary Deputy Speaker: Hon. Aneme!

Hon. Aneme: Thank you, Mr. Temporary Deputy Speaker. Before I forget, I want to persuade the House to totally reject this report with reasons.

(Laughter)

If you look at the literature of the whole issue, this is not a report from the Committee on Roads and Infrastructure. It is a report from the director of roads, handed over to these people and then they gave it the preamble in order to look like it is theirs so that they bring it here.

(Laughter)

(Applause)

The whole literature here tells us that these people didn't own this thing. 80% of the report here is, 'the director informed us'. So, they were just swallowing what the directors informed them without chewing.

(Applause)

The other thing which infact should have been cleared if the Committee was an oversight Committee; they should have grilled this report to get to know the list of the contractors who did the substandard job to the Siaya people. It is not reflected here.

Number 2. They are accepting that they owned that there are contractors whose payments have not been effected to date. Who are these contractors that the County Government has refused to pay because of the substandard work done? That one is not appearing here. Which means the Committee did not grill this thing to own the report.

Number 3. This director is telling them that now they have selected the contractors who are the best. Who initially chose those contractors who are not the best? We also need to know that. The Committee should have exhumed that so that we know it. They are now getting the best people, who interfered with their system that gave us the bad ones whom they are refusing to pay? What criteria are they now using to enable them reach the best people which they did not apply initially? That one, the Committee should help us to know!

It is a total lie that these people are combining the projects to one particular person or to a few people so that they get easy supervision. Are they supervising the person owning the company or they are supervising the work? If I am a contractor and I am given 10 projects to do,

what is the Committee supervising and what is the director of roads supervising? Is he supervising me or supervising the 10 projects that I was given which cuts across Siaya? So, it is a total lie that combining them is to give them ease to supervise.

Lastly, the report is not giving us an answer on the progress or the status of all the projects that have been undertaken from the year 2013/2014 and some which have been done in 2014/2015. This report should have given us a summary of the status of all the projects which were done to completion, which have been certificated, which have not been paid because of substandard jobs and all that kind of stuff. We need it here. If this report could have contained all those, then we would say that this report is having some sense.

But otherwise the way it is, our dear Committee only gave us the preamble, but the report is not theirs, it belongs to the director who was telling them how they have been succeeding to fail. Thank you, Mr. Temporary Deputy Speaker, Sir.

Hon. Temporary Deputy Speaker: Hon. Elisha!

Hon. Okuku: Thank you, Mr. Temporary Deputy Speaker, for giving me an opportunity to join one of my best friends, Aneme, to condemn this report. It is difficult definitely to support this report as it is. I begin with the issue of clustering. As it has been said by the previous speakers, clustering projects undermines democracy and even the rights of people. Reason being that somebody cannot sit in a corridor somewhere and say that if you are disabled, then you can only do projects ranging from Ksh. 1- Ksh. 500,000 or from Ksh. 500,000-Ksh. 2.5 Million, or if you are a woman or a youth, you can only go for certain projects. This undermines the spirit of democracy and bars people from decision making. So, I think that the easy answer that the Committee should have brought to this House is that they wanted contractors who can bring them big shares from the projects they are going to take. That's why they decided to cluster! So that they can collect more from contractors, and I think this hon. House cannot accept that somebody sits in an office to work formulas on how he/she can collect more from contractors, and we as an Assembly who should be playing oversight role, clap and sing that it is a job well done. That is wrong!

Somebody wants to convince this hon. House that by clustering these projects and by combining them together, then it brings about easy supervision. That is a total lie! Because, if a project is given to Elisha to do in Usonga Ward, another one to the same Elisha as a contractor to do in South Uyoma Ward and another one in Ugunja, it will force the supervisory team to go to Usonga to supervise the work that I have done there, move to Ugunja to see what I have done there and thereafter move to South Uyoma. They are not going to call me in a hotel and say, because you are doing three projects in the County and we are now seeing you in a hotel, it is now easier to supervise or assess you. This does not make any meaningful argument before this House. You cannot carry all your eggs in one basket. That means that you are going to kill several Ward projects by giving them to a single contractor.

Mr. Temporary Deputy Speaker, I think that what this hon. House should do is to reject this report and to make a ruling that we refuse ---

The Temporary Deputy Speaker (Hon. Madialo): Hon. Elisha, don't think for the House, just propose what you want.

Hon. Okuku: Mr. Temporary Deputy Speaker, what I propose that this House should do is that we should make a ruling that we don't want to go that direction of clustering projects and combining them together. I think that it is demeaning to members of the County of Siaya. And I think there is a very key important point here; you find that by the time these projects have been clustered the way they have been done, one project will cost over Ksh. 5 million and it will definitely attract contractors from outside Siaya. The people of Siaya will identify projects, approve the budget and those who will reap from those projects will come outside Siaya, take the projects and benefit, while the people of Siaya remain hungry, watching, clapping, worshipping and praying. We can't agree!

I think that since Booker left this Committee, that's why this report has been brought to this Assembly and I think that he should be taken back to this Committee so that a good report can come.

Mr. Temporary Deputy Speaker, I surrender---- oh, he is saying that he is still in the Committee! I wonder if Booker can bring such a report to this hon. House. Thank you, Sir

(Laughter)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Omwende. Members, I will take two more contributions before putting the question.

Hon. Omwende: Thank you, Mr. Temporary Deputy Speaker, I will accept the crucifixion that this House----

(Applause)

Has subjected the Committee on public works, roads and transport, and this is the same period that Jesus was also undergoing crucifixion.

(Laughter)

Mr. Temporary Deputy Speaker, there is a disease that is spreading in this House at a very alarming rate. Some Members who I don't want to quote-- if the report started with one Member rejecting it, most of the Members just follow suit and reject it just for the sake of rejecting.

(Hon. Muhulah and hon. Aneme stood at their places)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Omwende, withdraw that one!

Hon. Members: Yes! And apologize!

Hon. Aneme: Point Order, Mr. Temporary Deputy Speaker!

Mr. Temporary Speaker (Hon. Madialo): Hon. Aneme, just take your seat. I am expecting a withdrawal from---

Hon. Omwende: Let me withdraw. I withdraw it by a half.

(Laughter)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Omwende, withdraw.

Hon. Omwende: I withdraw, Mr. Temporary Deputy Speaker, Sir.

(Laughter)

(Applause)

The Temporary Deputy Speaker (Hon. Madialo): Proceed!

Hon. Omwende: Mr. Temporary Deputy Speaker, we have to know the mandate of the committee. In fact, most Members speaking didn't understand the mandate of the Committee. The Committee report was on the tendering process for the financial year 2014/15. That was one of the mandates of the Committee. In fact, am surprised if Members are saying that we as a Committee should have gone ahead and gave a report on the undone projects and the tendering processes of the 2013/14 financial year. Mr. Temporary Deputy Speaker, I know that you are a wise man, please advise because there is a lot confusion. One hon. Member even said that we don't know how to analyze!

Members here think that the report should favour them. That is the idea that comes first and that is what is bringing a lot of confusion. But this is what we got from the Director! What do you expect from us if the Director has said that? And this is logical to me. If you compare one family that is having many children and another family with only two, in terms of planning and---

Hon. Muhulah: Point of Order, Mr. Temporary Deputy Speaker, Sir!

(Laughter)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Muhulah, what is your point order?

Hon. Muhulah: Mr. Temporary Deputy Speaker, is it in order for the hon. Member to keep on misleading this House? We are talking about supervising projects in this County. We cannot equate it to a family having 5 children and another one having 2 children. Is the Member in order even to ask and insinuate that the people in this House do not have the capacity to understand about the report?

The Temporary Deputy Speaker (Hon. Madialo): Hon. Omwende, please confine yourself to the contents of the report of which you are supposed to be a signatory. Confine yourself to the content and the spirit of it. We can discuss children later.

Hon. Omwende: Mr. Temporary Deputy Speaker, you should have given me the opportunity to defend what am trying to say.

The Temporary Deputy Speaker (Hon. Madialo): As long as you are not talking about children.

Hon. Omwende: It's ok. But sometimes the use parables is also important. Mr. Temporary Deputy Speaker, I am talking about the family because of the clusters. Cluster A- that is where we have a few contractors. If you compare the other years when we were had many contractors--

The Temporary Deputy Speaker (Hon. Madialo): Hon. Omwende, if you listened to the Members carefully, they are saying that if you wanted the report to be looked at in the line you want it to be looked at- in comparison with the previous tendering system, then you put the two systems on the table and they look at each against the other and then they make a decision as to whether the previous one was better than the current one. So, kindly address your mind to the contents of the report that is before the House. Avoid what is not before the House.

Hon. Omwende: It seems you have already taken side Mr. Temporary Deputy Speaker, Sir---

(Laughter)

But I kindly request that am supporting this---

Hon. Okuku: Point of order, Mr. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Madialo): Yes, hon. Elisha.

Hon. Okuku: Is it in order for the hon. Member to misguide this House that the Speaker has taken sides?

The Temporary Deputy Speaker (Hon. Madialo): Hon. Omwende, you are out of order. You are ordered to withdraw.

(Laughter)

Hon. Omwende: It will force me to withdraw again, Mr. Temporary Deputy Speaker.

(Laughter)

But I am concluding saying that this was a report from the Executive. It is not our report and that is why we are bringing it to this Assembly. Thank you, Mr. Temporary Deputy Speaker, Sir.

(Applause)

The Temporary Deputy Speaker (Hon. Madialo): Hon. Booker.

Hon. Minami: Thank you, Mr. Temporary Deputy Speaker, for giving me the opportunity to contribute to this report. First of all, I want to confirm that am a very strong Member of this Committee.

(Laughter)

But Mr. Temporary Deputy Speaker, in any Committee report, you will always find a place where all the Members have to sign. But, Mr. Temporary Deputy Speaker, if you look at this report, names were written and it's only the Chair who has signed it.

I am the one who seconded this Motion, but having listened to the contributions from Members and the issues that have been raised and remembering the way we debated here yesterday on the report of the Agriculture Committee, any sane Member who is doing oversight would request that the Committee be allowed to withdraw this report---

(Applause)

So that a proper report is brought to this House. I want to say, and this one should be to all Committees the way you said yesterday. There is no way a Committee can bring a report in the House then claim that it was given to us by the Chief Officer or the Director.

(Applause)

That one cannot be true! Even today we have questions that have been raised and referred to Committees; we don't expect that next time when a Committee is bringing a report here, they will say that it belongs to the Director or the Chief Officer. No! Report as a Committee that we went out and say this is what we found out. So, I want to request all of us, yesterday it was the Agriculture Committee, today it's the Roads Committee, and tomorrow it may be Tourism, Pic and Pac or whichever, we don't want to hear that the Director said, we want the report that the Committee went and found out. That is the report we want! So, am requesting that as a Committee when you are given a task, go round, make sure you get information. Even if there is somewhere that department sat down and made that decision, let that decision be brought here, where Members sat and the minutes of the meeting. So that a report is given with evidences supporting anything that is said!

On behalf of this Committee, I request that you allow us to go back and do a thorough job that will be brought here and make sense to the House. Thank you.

(Applause)

(Question on withdrawal of the report proposed)

Hon. Apiyo: Thank you, Mr. Temporary Deputy Speaker. On behalf of my fellow Committee Members and on behalf of the Chair of this Committee, I would request your Chair and the House to invite the CEC, the Chief Officer and the Director before this hon. House to answer all the questions that have been put across.

Mr. Temporary Deputy Speaker, Sir, I am putting this across because we have seen several business that have been lined up, and because I love the way hon. Members have put their sentiments across, I would like that we bring all the three officers to be grilled before this Hon. House and answer those questions.

The Temporary Deputy Speaker (Hon. Madialo): Sorry, hon. Apiyo, are you moving a Motion that you be allowed--- are you supporting that you be allowed to withdraw this report? And if were doing so, seek for a Secunder and then we proceed!

Hon. Apiyo: Mr. Temporary Deputy Speaker, what I am saying is that, when I withdraw the report, then it will mean that as a Committee, we will go again and invite them. Now I am requesting that the invitation should be before the Floor! So, it's different with what you are asking.

The Temporary Deputy Speaker (Hon. Madialo): You are out of order, hon. Apiyo! Tell the Assembly whether the report is being withdrawn or not!

Hon. Apiyo: The report is being withdrawn.

Hon. Minami: Mr. Temporary Deputy Speaker, I second.

(Question on the withdrawal of the report put and agreed to)

The Temporary Deputy Speaker (Hon. Madialo): Before we go to the next Order, Members, when bringing 'reports' to the Assembly, please let us ask ourselves first whether it is a report or a statement. Because this is not a report! Does it sound like a report? Is it not a statement from the Director of procurement to the Assembly?

Secondly, when this Assembly by a resolution adopts anything, it has the force of law. And when we say that 5% will be given to a certain category of people during procurement, surely is that in line with the provisions of Public Procurement and Disposals Act? So, as a Committee, when a person tells you this is the policy I am coming up with, do we probe to find out whether what we are being told is in line with the existing regulations? Is it a one man decision?

Lastly, Chairmen of the Committees, When a person asks---If you look at this, are you able to discover which Member amongst us asked for this Statement? Hon. Apiyo Apiyo in yours, I believe yours is the one am holding, are you from the face of it able to tell who was being answered?

Hon. Apiyo: Mr. Temporary Deputy Speaker, what I would say as the truth before this hon. House is that the report was done with other Committee Members with the Chair who is sick in hospital right now. Most of the Members were never there. Like hon. Booker was not there, hon. Omwende was not there, even me I wasn't there. We were given the report and it's me who said that we cannot present the report. Then I did invite again the Director---

The Temporary Deputy Speaker (Hon. Madialo): Hon. Apiyo Apiyo, the question was this, from the report who in this Assembly asked for this? Does it disclose?

Hon. Apiyo: Mr. Temporary Deputy Speaker, this came from a Statement before this House.

The Temporary Deputy Speaker (Hon. Madialo): Who asked for the Statement?

(Loud consultations)

(Laughter)

Hon. Apiyo: Whatever you are asking for Mr. Temporary Deputy Speaker, is not in this report.

The Temporary Deputy Speaker (Hon. Madialo): Whatever it is, you know it. Hon. Apiyo Apiyo, what are you in the Committee?

An hon. Member: He is now the acting Chair!

Hon. Apiyo: Mr. Temporary Deputy Speaker, I have said very well that I am the vice Chair of this Committee.

The Temporary Deputy Speaker (Hon. Madialo): Thank you, hon. Apiyo Apiyo, kindly take your seat now. And lastly, to avoid this so that we don't list this type of papers, and I do not mean to derogate on the Membership that came out with this, but surely, if you are sent to go and deal with the department of roads and public works and you go to the director of procurement, that is a very junior person in that department! Can that person--- because these statements are being given by the CEC's on behalf of the Governor. Can the person in procurement answer for the Governor? So can we really say we were over-sighting by going to some director in a department and say that, that is what the director said?

So, I will direct that in the next interactions between the Committees and the Executive, that we ensure that we are interacting with such officers that can have answers that are binding on the Executive. These would be Chief Officers and CEC's or people designated by them in writing to attend to the Committee request. We must avoid going directly to the junior officers and then saying that director said this.

Lastly, let these reports come through the Liaison Committee and then the House Business Committee before they are tabled in the Assembly for discussion. I rest my directions by reading for you the heading that says, 'Report on Committee for Roads, Public Works, Transport and Communication concerning the tendering process....' You were probing a process only. Whether the tenders were awarded or not, is not an issue

Next Order!

MOTION

Hon. Minami: Thank you, Mr. Temporary Deputy Speaker. I want to present to the House, the order of business that the House is going to undertake in the coming two weeks.

Tuesday, 3rd March, 2015 - Afternoon Sitting

1. Report of Committee on Agriculture, Livestock and Fisheries on Beacon's meeting at Great Lakes Hotel, Kisumu.
2. Motion by Hon. Peter Muhulah, MCA, West Alego Ward on Disaster Management Preparedness by the County Government of Siaya.

Wednesday, 4th March, 2015 - Morning Sitting

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1. Report of the Committee on Agriculture, Livestock and Fisheries on their visit to Mumias Sugar Company.
2. Report by Committee on Lands, Physical planning, Surveying and Housing on land dispute on Kadenge plot 899 and Mbolori Market in Central Alego Ward.
3. Second reading of Public Participation Bill, 2014
4. Second reading of Siaya County Loans and Mortgage Fund Bill, 2014
5. Report of the Committee on Delegated Legislation, Justice and Legal Affairs on Siaya County Public Service Board's Proposal on Establishment of the Office of the County Attorney, Siaya County Government

Wednesday, 4th March, 2015 - Afternoon Sitting

1. Report by Committee on Public Investments and Public Accounts Committee on Special Report on Financial Operations of the County Government and Defunct Local Authorities for the period, 1st January, 2013 to 30th June, 2013.
2. Debate on Siaya County wards Development Fund Bill, 2014.

Thursday, 5th March, 2015 - Afternoon

1. Committee on Public Works, Roads, Transport and Communication's response to Statement request by Hon. Elisha Okuku on the status of undone projects for 2013/14 in Yimbo East Ward.
2. Committee on Public Works, Roads, Transport and Communication's response to Statement request by Hon. Joanes Andiego on the status of undone projects for 2013/14 in Central Sakwa Ward

Tuesday, 10th March, 2015 – Afternoon Sitting

1. Report of Committee on Health on sacked Ukwala Health Centre Morgue Attendant.
2. Report by Committee on Trade, Industry, Labour and Cooperative Development to Statement request by Hon. Elisha Okuku on high fees and charges levied by the County Government of Siaya to the traders and the legal authority for the same.
3. Statement by Chairman, Committee on Welfare on contributions towards the Welfare kitty by Members.

Wednesday, 11th March, 2015 – Morning Sitting

1. Report of Committee on Health on Benchmarking visit to Kwale and Taita Taveta Counties.

Thursday, 12th March, 2015 – Afternoon Sitting

1. Report of the Committee on Agriculture, Livestock and Fisheries on status of agriculture preparedness, hire of tractors, procurement and distribution of seeds and fertilizer in the FY 2014/15.
2. Response to Statement by Committee on Administration and Governance on the recruitment of a substantive County Secretary as requested by Hon. Elisha Okuku, MCA, Yimbo East Ward.

3. Response to Statement by Committee on Health Services on recruitment of Health Workers by the County Government of Siaya as requested by the Hon. Elisha Okuku, MCA, Yimbo East Ward.
4. Response to Statement by Committee on Agriculture, Livestock and Fisheries on the Task Force Report about Dominion Farms Ltd as requested by Hon. Elisha Okuku, MCA, Yimbo East Ward.
5. Debate on Quarterly Financial Year 2013/2014 Reports by Committee on Finance, Budget and Appropriations.
6. Report by Committee on Administration and Governance on list of contractors prequalified by the County Government of Siaya.

Mr. Temporary Deputy Speaker, Sir, as I finish, the office of the Majority is requesting that all the Committees that have been given responsibilities and time slotted for them to make sure that the reports they bring should meet the requirements of a report that can be tabled in the Assembly.

Thank you.

ADJOURNMENT

Hon. Minami: Mr. Temporary Deputy Speaker, being that there is no any other business to transact in the House; I call upon the House to adjourn until Tuesday, next week at 2.30 p.m. in the afternoon.

Hon Muhulah: Hon. Temporary Deputy Speaker, which Tuesday? He has just said Tuesday in the afternoon.

The Temporary Deputy Speaker (Hon. Madialo): Hon. Muhulah is a stickler for procedure.

Hon. Minami: Mr. Temporary Deputy Speaker, let me help hon. Muhulah. I'm saying, Tuesday, 3rd of March, next week in the afternoon.

(Question put and agreed to)

The House rose at 4.06 p.m.