

Wednesday, 25th July, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly - Second Session

Wednesday, 25th August, 2018

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

[The Temporary Speaker (Hon. Opanga) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

TEACHERS AND STUDENTS FROM ST. BARNABAS GIRLS' SECONDARY SCHOOL

The Temporary Speaker: Hon. Members, I wish to recognize the presence of teachers and students from St. Barnabas girls' secondary school from Kisumu County, Seme sub county. They have been accompanied by their teachers, Mr. Chrispine Ogola, Madam Elizabeth Kwamboka and Mr. Reynard Bonke. On behalf of Members I extend a warm welcome to them and wish them a happy and fruitful visit. Next Order!

PAPER

HALF YEAR REPORT OF THE COUNTY PUBLIC SERVICE BOARD

Hon. Olasi: Thank you, Mr. Temporary Speaker, Sir; I wish to lay on the Table of the House the January- June 2018 half year Report of the Siaya County Public Service Board.

The Temporary Speaker: The Paper having been laid I direct that it be committed to the Committee of Governance & Administration, thank you. Next Order!

NOTICE OF MOTION

STATUS OF MARKET INFRASTRUCTURE DEVELOPMENT PROJECTS FOR FY 2016/2017

Hon. Oduor: Thank you, Mr. Temporary Speaker, Sir; first of all I would like to welcome to this House the students of Barnabas girls' secondary school and their teachers. I beg to give a Notice of Motion:

THAT this House adopts the Report of the Committee on Finance, Trade, Industry, Labour and Cooperatives on the implementation status of market infrastructure development projects for FY

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2016/2017 across the County laid on the Table of the House Tuesday, 24th July 2018. I call upon Hon. Booker to second.

MOTION

**STATUS OF MARKET INFRASTRUCTURE DEVELOPMENT PROJECTS FOR FY
2016/2017**

Hon. Oduor: Mr. Temporary Speaker, Sir; I would like to Move the Motion: THAT this House adopts the Report of the Committee on Finance, Trade, Industry, Labour and Cooperatives went to Kisumu to come up with the status of market infrastructure development projects for FY 2016/2017 across the County laid on Table of the House. I call upon Mr. Booker to second it.

Hon. Booker: I second.

Olasi: Point of Order!

The Temporary Speaker: Yes, Hon. Olasi.

Hon. Olasi: Mr. Temporary Speaker, Sir; in this House we have Hon. Members, I wonder why the Chair to Finance can refer to a Hon. Member who is an Elected leader representing the interest of the people of North Uyoma as Mister in this Hon. House. I tend to disagree.

Hon. Odongo: Point of Order!

The Temporary Speaker: Yes, Hon. Odongo; what is it?

Hon. Odongo: I would like to correct the Chair of Finance to Move the Motion in the right way on how it's supposed to be moved.

The Temporary Speaker: Hon. Member; you are out of Order because the Hon. Members and the Clerk are in consultation and I think the matter has been sorted. Yes, Hon. Booker Bonyo.

Hon. Booker: Mr. Temporary Speaker, Sir; I would have liked the Chair for Trade to apologize to me personally.

The Temporary Speaker: Hon. Peter Oduor, withdraw the Statement of Mister and replace it with the correct title.

Hon. Oduor: Hon. Temporary Speaker, Sir; I'm very sorry for having refereed to a Hon. Member as a Mister; I would like to apologize to Members of West Uyoma for having called their Hon. Member a Mister.

The Temporary Speaker: You can continue and Move the Motion.

Hon. Oduor: I would like to Move the Motion: THAT this House adopts the Report of the Committee on Finance, Trade, Industry, Labour and Cooperatives went to Kisumu to come up with the status of market infrastructure development projects for FY 2016/2017 across the County laid on Table of the House.

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Mr. Temporary Speaker, Sir; in the FY2016/2017 County Government Project implementation status report¹, the County Government of Siaya department of Trade, Industry, and Cooperatives Development puts the total number of implemented infrastructural projects in the department at 126 projects done in various markets across the county.

The projects varied from; market drainage systems, toilets and latrine constructions and market shades. According to the report; out of 126 projects, 69 were classified as complete, 41 as on-going, and 16 as stalled projects.

Accordingly, the report indicates that the department had a total development budget of Kshs. 188,612,700.40; out of which a total of kshs.132, 172,839.84 was contracted out for various projects. Additionally, the report specifies that the department paid a total of Kshs. 57,942,085.81 to various contractors for the projects contracted. However, a total of Kshs. 139,549,200.22 is reported as the balances owed to the contractors –constituting the departmental pending bills.

In its oversight capacity, pursuant to article 185 (3) of the Constitution of Kenya 2010², Section 8 of the County Governments Act 17 of 2012³ read together with County Assembly of Siaya Standing Orders⁴; the committee on trade proceeded with an exercise aimed at looking into the operational status of the county market projects across various market centers in the county.

The exercise specifically entailed; inspections of; completed constructed county market shades; market lighting systems; market toilets, market fencing projects, market drainage systems, murraming of markets and constructed bodaboda shades in various markets.

This report is therefore a documentation of the implementation status of market-infrastructure development projects across the county for the financial year 2016/2017. This report is a documentation of an oversight exercise by the County Assembly Committee on Finance, Trade, Industry, Labour and Cooperatives on the status of County Market Development projects implemented in the FY 2016/2017. The Committee sampled and visited a good number of completed markets in various Wards.

The exercise was triggered by an executive report from the department of Trade on the implementation status of market infrastructure development projects done in the FY 2016/2017. The Committee analyzed the executive report, held a meeting with the CECM-Enterprise and industry on the said report, visited the markets, engaged various stakeholders and hereby reports the findings.

The sampled markets included; Usenge market, Kopollo market, Kongawo market, Madiany market, Ragengni market, Ajigo market, Sidindi market, Yala township market, Bar-Kalare market, Nzoia (Ukwala) market, and Mbosie market⁵.

Important to note Mr. Speaker Sir, is that most of these projects were ward funded.

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The main objective of the exercise was to assess the implementation status of the County market-infrastructure development projects.

Specific objectives of the exercise included;

To determine whether the selected market-infrastructures have been worked on by the contracted service providers as per the contracts

To assess whether the constructed market infrastructures are in usable conditions and adequate/appropriate for the market populations

To determine whether the County Government and the people of Siaya got value for their resources used in the projects

During the exercise, data was collected using well drafted data collection tools such as interview guides.

MOTION

BENCHMARKING VISIT TO NAIROBI CITY ASSEMBLY

Hon. Opanga: Thank you, Mr. Temporary Speaker Sir, though I didn't have the Order paper. I rise to give a Motion:

THAT this House adopts the Report on Committee on Implementation on their Benchmarking visit to Nairobi City Assembly laid on the Table on Tuesday, 24th July, 2018.

The committee on Implementation is established under Standing Order number 198 which states that:

- (1) There shall be a committee to be known as the committee of Implementation;
- (2) The Committee shall scrutinize the resolution of the County Assembly (including adopted committee reports), petition, and undertakings given by the County Executive Committee and Examine:-
 - a. Whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary;
 - b. Whether or not legislation passed by the county assembly has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.
- (3) The committee may propose to the county Assembly, sanctions against any member of the County Executive Committee who fails to report before it on Implementation status without justifiable reasons.

MEMBERSHIP

The Committee on Implementation as constituted on Wednesday 31st September 2017 is composed of the following members:

- | | |
|------------------------|--------------------|
| 1. Hon Fredrick Opanga | - Chairperson |
| 2. Hon Edwin Odhiambo | - Vice Chairperson |
| 3. Hon Emily Awita | - Member |
| 4. Hon Filly Onditi | - Member |
| 5. Hon Caren Ayika | - Member |
| 6. Hon Maurice Aringo | - Member |
| 7. Hon peter Omondi | - Member |

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EXECUTIVE SUMMARY

The spirit of decentralization was that County Governments should generally be in a better position than the Central Government to identify local needs, and to deliver public services accordingly. For that reason the County Government of Siaya should be able to deliver services to its people.

The County Government of Siaya has faced challenges in implementing resolutions of the house as adopted; this has attracted numerous complaints from the citizens of Siaya County. In Order to redeem this situation, the Siaya County Assembly Implementation Committee, that is responsible for following up on resolutions of the August House were granted permission to benchmark and share with the counterpart Committee of Nairobi City County Assembly and get experience on how to assist the Assembly make sure resolutions of the House are implemented to the latter.

The Committee in their third quarter work plan 2017/2018(January - April) scheduled to have a benchmarking visit to Nairobi City County Assembly and meet counterpart Implementation Committee for capacity building and on its sitting held on 24th January 2018 they set the dates and the number of days for the visit.

The Benchmarking Visit to Nairobi City County Assembly was informed by the fact that the Nairobi County is the smallest ... and yet most populous of the Counties, with 3.375 million as its population (2009 G.o.K Census) yet the County has been able to deliver good service to its inhabitants.

The objectives of the benchmarking visit were as follows:

1. To share the experiences, achievements and challenges of the Committee while discharging their constitutional mandate.
2. To enhance closer working relationship between the two institutions.

During the meeting in Nairobi City County assembly, the Committee found out that the relationship between the Nairobi County Assembly Committees and its Executive is a cordial one where the CECMs wouldn't miss any invitation or respond to queries from its County Assembly Committees'

In a nutshell the Committee recommends that the County Executive Committee Members to submit to the Siaya County Assembly Sectoral Committees quarterly Performance reports as required of them by the Constitution of Kenya Article 183 (3).

ACKNOWLEDGEMENTS

The Committee would wish to extend its gratitude to the office of the Speaker and that of the Assembly Clerk for its support towards planning and facilitating the exercise.

On behalf of the Implementation Committee, it is my pleasant duty to present this report to County Assembly of Siaya and urge the House to adopt it.

Hon Fredrick Opanga.

Chairman Implementation Committee.

INTRODUCTION

I will not read the whole thing but I will just do a brief introduction;

According to the S.O 172 the Implementation Committee was granted approval from the Speaker of County Assembly of Siaya to visit Nairobi City County Assembly for peer learning/benchmarking visit with the hosts' Implementation Committee.

The experience was to enable them and even the Assembly as a whole work efficiently and effectively moving forward.

In the first (1st) five (5) years of devolution, all Departments of Siaya County Government performed dismally on Implementation of projects. The inability of the County to raise adequate resources to finance recurrent and development expenditures has stood out as a big challenge faced by the County. The hue and cry from all and sundry pertaining to poorly done projects and lack of implementation of resolutions of the House included and not limited to laws is a big problem to both the Siaya County Executive and the Assembly.

Case in point, in the 2016/2017 FY, the County Government of Siaya had a total of 887 development projects but only 548(61.8%) projects were completed according to their letter and its attachment REF NO.CGS/OCS/C.ASS/CORR/3/VOL.IX/ (93) dated 29th January 2018 to the County Assembly of Siaya, this was far below the expected target in that Financial Year.

This can partly be attributed to the fact the County Government of Siaya still faces the following problems;

- 1) Inefficient manual systems to collect revenues
- 2) Lack of skilled personnel in the departments.
- 3) Less allocation of funds to the department
- 4) Lack of political goodwill.
- 5) The fact that the finance department isn't decentralized hence slowing operation of other departments in the executive.

In order to redeem our image as Siaya County Government in as far as implementing house resolutions is concerned the committee organized a benchmarking visit to Nairobi City County Assembly to borrow best practices and make recommendations which will assist enhance implementation of House resolutions' for the common good of the people of Siaya.

NAIROBI CITY COUNTY ASSEMBLY IMPLEMENTATION COMMITTEE

The Committee on Implementation Nairobi City County Assembly was constituted by the Assembly on Thursday 5th October, 2017.

Prior to our visits, the Committee obtained authority from the Speaker of Nairobi City County Assembly Hon. Beatrice Elachi on an advice by the Clerk of Nairobi City County Assembly.

The committee hosted us from 20th March to 22nd March 2018, during the meetings we were informed that they carried out their committees' activities through the following ways;

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- 1) Gathering information from site visits that inform Committee's report on the matter under inquiry.
- 2) Carrying out site visits that inform the Committee on implementation status report on the Assembly resolutions as forwarded to the Committee by the County Executive.
- 3) Undertaking Committee workshops and retreat
- 4) During the workshops, members scrutinize the Assembly resolutions and implementation status reports from the County Executive.
- 5) New members get trained on Assembly procedures and other emerging issues.

ACHIEVEMENTS OF NAIROBI CITY COUNTY ASSEMBLY IMPLEMENTATION COMMITTEE

The host Committee has managed to ensure that the resolutions of the house passed by County Assembly have been implemented by the various County Executive departments and Sections in the first assembly.

The Committee also had a comprehensive meeting with the H.E Governor Evans Kidero during his time in power and his County Executive Committee Members to deliberate on the progress of the implementations status of the County Assembly's passed resolutions and the way forward on fast tracking the implementation process

The Committee had tabled several reports in the 1st Assembly on the implementation status of various resolutions passed by the County Assembly including Motions and legislations which are in operation as at now.

CHALLENGES OF NAIROBI CITY COUNTY ASSEMBLY IMPLEMENTATION COMMITTEE

The host Committee stated that they had resolutions of the House passed by the County Assembly and forwarded to the various County Executive Sectors not being conclusively implemented due to insufficiency of funds which ended up being rolled over to new Financial Years which further affected the procurement process.

The Committee informed us that they had a challenge in checking the level of implementation of recommendations from Sectorial Committee reports since most of the recommendations weren't SMART(Specific, Measurable , Attainable ,Realistic ,Timely)

The Committee was made aware that they had not checked the level of implementation of the Acts or legislations that were passed in the 1st Assembly due to time constraint. They stated that these were being resolved in consultation with the current Governor (Newly elected Governor, H.E. Gideon Mike Mbuvi Sonko).

The Committee learnt that there was a Committee set up in Nairobi City County Assembly that was mandated to handle issues to do with staff members' car loans and mortgages. The Committee was taken around the Nairobi City County Assembly premises.

They learnt that the Assembly was in the process of building new Committee boardrooms and chairpersons offices. The benchmarking visit to Nairobi City County Assembly was an eye opener to the Committee in such a way that the Committee learnt that they had to follow up on the resolution of the House with zeal to ensure that the House resolutions are implemented successfully.

Committee Findings. The Committee found out that;

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- 1) The relationship between the Nairobi County Assembly Committees and its Executive was cordial. CECMs wouldn't miss any invitation or failed to respond to queries from the County Assembly Committees.
- 2) Nairobi City County Assembly in its first five years of devolution was able to pass a total of 40 Acts, an exceptional number of legislation. Some of the Acts passed include;
 - The Nairobi City County Tax Waivers Administration Act, 2013
 - The Nairobi City County Plastic Carry Bags Control Act, 2014
 - The Nairobi City County Regularization of Development Act, 2015
 - The Nairobi City County Attorney Act, 2016
 - Nairobi City County Evictions Demolitions and Resettlement, 2017
- 3) Most Members of the Implementation Committee Nairobi City County Assembly were newly elected hence relied on the directives of the Hon. Speaker to guide its operation especially in areas of oversight that would create conflict of interest between Sectoral Committees and Implementation Committee.
- 4) The Committee was handed a copy of a House Resolution that was passed in the House in the First Assembly in form of a report, namely;
 - Nairobi City County Assembly report on the Implementation Status of passed Motions from 2013 to 2016.
- 5) Most of the pending projects that were rolled over had been frustrated projects due to insufficient funds but there were those that the Committee would follow up and ensure were implemented.
- 6) Acts that required regulations were left for the respective CECMs to come up with the regulations. It was the prerogative of the CECM to either develop the regulations or not since the Acts stated that they "may".
- 7) Despite the fact that it is mandatory that all regulations operationalizing Acts must be approved by the Assembly, Nairobi City County Assembly had not received any regulations from the County Executive for approval.
- 8) Nairobi City County Assembly had not checked the level of implementation of the Acts but informed the Committee that they would do so soon after capacity building of the newly elected Members.
- 9) CECs of Nairobi City County Government were very proactive in submitting quarterly performance reports to the County Assembly in line with Article 183(3) of the COK, 2010.

Recommendations

Based on the findings, the Committee recommends that;

- 1) County Executive Committee Members submit to the County Assembly Sectoral Committees quarterly performances reports as required of them by Article 183(3) of the Constitution of Kenya, 2010.
- 2) County Executive Committee Member (CECM) for Finance in the next FY and subsequent financial years should ensure that all pending projects are completed before

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initiating new ones to avoid duplication of projects in the future. This can be actualized by ensuring that adequate funds are allocated for the projects

- 3) Each Sector of the County Executive should study the Acts, note the action areas and ensure that the provisions are fully enforced. This can be achieved by ensuring that the respective CECMs develop regulations to assist in operationalizing the Acts.
- 4) All Sectoral Committees to present to the House 'SMART' resolutions, that are implemented with clear time lines and actioning officers. This will make it easier to evaluate the level of implementation.

I call upon Hon. Audi to second.

(Hon. Audi stands to second)

(Question proposed)

Hon. Oduor: Thank you, Mr. Deputy Speaker, Sir. I rise to support this report and commend the good job the Committee did when they went to Nairobi City County Assembly. I think all the Committees should be given a chance to go out and this Committee will ensure how things are supposed to be done as per their recommendations. Thank you and I support.

Hon. Deputy Speaker: Yes, Hon. Adala!

Hon. Adala: Thank you, Mr. Deputy Speaker. I rise to make a contribution on the report laid by the Committee on Implementation.

It is said that if you constantly have meals which have been made by your mother, you may assume that your mother is the best cook. I want to laud the steps that were taken by the Committee to go out and have a feel of how other Assemblies are doing their work. Most of the resolutions passed by the House, a number of them are never implemented by the Executive. The Committee did it good enough that they could go and have a feel of how others are doing especially the County of Nairobi which I think was a right choice because it serves a very big population.

Where I find fault in this report is that, I really expected to see in their recommendation how best do you recommend the Sectoral Committees of Siaya to do recommendations which you think are SMART enough and could help us ensure that everything that has been resolved in this House is implementable.

My other concern on the lessons learnt, is that the County of Nairobi has got a special Committee that looks at issues of loans and mortgages. I was very interested in reading from their report, how is it done out there? What is it in Nairobi that is not here? I think we don't have a Committee that looks at that. It would have been very interesting for Hon. Members of this House to know what really informed the formation of this Committee by the County Assembly of Nairobi and how is it important.

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Finally before I support or not, I want to say that when we go out to benchmark, then there must be something very unique as a way of a success story. Having read the findings and the recommendations, these are things you can learn by a phone call away.

I don't know if there was nothing unique in Nairobi and if at all there is something you learnt as a Committee, I am still wondering why you deemed it not fit to share with us, the success story. Because benchmarking before you set out to go to Nairobi, there is something unique you are definitely going to learn in Nairobi. Thank you.

Hon. Deputy Speaker: Yes, Hon. Ayika!

Hon. Ayika: Asante sana, bwana Spika. Mimi ni mmoja wa wanakamati wa hii kamati. Kwanza nimefurahi sana vile mwenzangu ameongea na ningependa kuongea kwa kipengele namba tisa. Zile vitu niliona pale, hata zingine haziko hapa, Kwanza ile pale. Tulipata kuwa kuna kamiti zingine ambazo walichanganyisha wanakamiti. Kwa mfano, iwapo utaangalia apa Siaya, iwapo Mheshimiwa yuko katika kamiti nyingine, umtoapo kwenye kamiti yake kumpleleka kwingine ataona vibaya. Lakini kule Nairobi tulipofika, tuliwauliza kwa nini walifanya hivo wakasema kwamba pengine uweze kumpata mtu yuko gwiji kwenye kamiti ya Fedha, mwengine gwiji katika Elimu.

Hivyo ndivyo sababu wengine walitoka wakavuka Elimu, wengine wakarudi katika kamiti ya Fedha, kulingana na kile unaelewa vizuri sana.

Nilifurahi sana jinsi ambavyo tuliweza kutembea, tulisoma mengi, tukapata kwamba apa Siaya, tunafanya kazi kuliko Nairobi. Siaya mnafanya kazi, kwasababu kile nalionakatika kaunti ya Nairobi, wanapenda pesa sana. Mtu dakika tatu ako pale, dakika mbili ako pale. Lakini apa Siaya bungeni, unaingia, unaketi chini, kuna kuchangia katika mijadala hadi wakati ule ambapo mijadala itakapoisha ndipo Waheshimiwa waweze kuondoka. Kwahivyo Mimi hapa naunga mkono mijadala huu.

Hon. Deputy Speaker: Any other contribution? If there is none, I would like to call upon the Mover to reply.

Hon. Opanga: Thank you Hon. Speaker. Allow me before I say anything to thank you Hon. Members, and the mood tells it all that the Report of the Implementation Committee is going to be passed. Before I do that, Hon. Adala had raised a very important thing, what unique thing did we learn? And in our submissions in this Report, there is a unique thing that we learnt.

That the Executive does a quarterly project status of every project of the sectorial Committee. That is a very unique thing that we learnt that is not being done here, and as a Committee, we will advise the Sectorial Committee, to ensure that, after every quarter, we do the same, so that we avoid further delays.

When we were sitting here in the morning when the Sectorial Committee was giving the status of the markets, if it was done quarterly, we wouldn't have reached the last financial year. That is a unique thing that we intend to introduce as a Committee to ensure that this issue of things being passed here and then we wait until the last financial year is when we start doing a follow up, that has to stop so that we do it quarterly. That is a unique thing. I hope you see the unique thing in that and we learn something.

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Secondly Hon. Members, on our recommendation number 4, all Sectorial Committees to present to the House smart resolutions that are implementable, with clear timeline actions and auctioning officers. This will ensure easy evaluation of the level of implementation. This is achievable. By saying smart, The Sectorial Committees, you know there are projects that you can give whereas the fund is there.

We need to bring the experts on board. Here in the Assembly we have experts who can advise. So as a Sectorial Committee, for us to ensure that we achieve this, we have to bring on board other people on the issues that we don't have full knowledge on so that we give a resolution on something that is attainable and achievable within the time that we have put as a House.

Members have raised very important issues. On the issue of staff, members car loans and mortgages, the reason why we did not make this as a recommendation is because we met as a Committee and we saw, what was happening in Nairobi, Nairobi has a Membership of over a hundred plus.

As an Assembly of Siaya we have Membership of 42, and this was a creation to ensure that Members that would not fit in other Committees would get somewhere to sit in, to be able to serve either within the Committee on the Members interest, or you can serve in the Committee as a watchdog. But there were Members who we were informed that are either only in one Committee due to the number of the Honorable Members.

So we saw it here in Siaya, there is no need of again creating another Committee because already we have the Committees that accommodates all the Honorable Members and are able to serve within the Committees that we have, and even on that issue, there is a department that deals with it through the Board.

As I conclude Hon. Speaker, this was a learning experience, and you see, for us to be able to serve the good people of Siaya, we need to bring new ideas, and also exchange our ideas with them so that they are also able to learn how Siaya is doing and how other Counties are doing. T

That is why I would encourage all Committees in this House, if you have in your quarterly work plan, or your annual work plan, you should also consider visiting other areas so that you bring us new ideas and see how best we can build Siaya. Otherwise I say thank you and support this report. Thank you.

(Question put and agreed to)

MOTION

ADJOURNMENT

Members, will you be upstanding for adjournment?

There being no other Business, this House stands adjourned until tomorrow Thursday, 26th of July, 2018.

The House rose at 3.37 p.m.