

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Second Session

Wednesday, 20th June, 2018

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

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

PRAYER

STATEMENT

IMPLEMENTATION OF SIAYA COUNTY PROJECT MANAGEMENT POLICY 2015

Hon. Oduor: Thank you, Mr. Temporary Speaker, Sir. The Finance Committee got a request from Hon. Francis Otiato on the implementation of Siaya County projects management policy 2015 and this is the response.

The Committee on Finance, Trade, Industry, Labour and Cooperatives is one of the Sectoral Committees established under Standing Order 200 and is mandated to:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments.
- b) Study the programme and policy objectives of departments and the effectiveness of the implementation.
- c) Study and review all legislation referred to it.
- d) Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives.
- e) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary and as may be referred to them by the House.
- f) Vet and report on all appointments where the Constitution or any law requires the House to approve, except those under Standing Order 195 (Committee on Appointments)
- g) Reports and makes recommendations to the House as often as possible, including recommendation of proposed legislation.

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Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

The Committee as currently constituted by this House comprises the following Hon. Members:

- | | | |
|---------------------------|---|---------------|
| 1. Hon. Peter Oduor | - | Chairman |
| 2. Hon. Samuel Siguru | - | Vice Chairman |
| 3. Hon. Samuel Olasi | - | Member |
| 4. Hon. Eric Odawa | - | Member |
| 5. Hon. Willis Ochieng | - | Member |
| 6. Hon. Nick Ochola | - | Member |
| 7. Hon. Booker Washington | - | Member |
| 8. Hon. Truphosa Odinga | - | Member |
| 9. Hon. Ambrose Akuno | - | Member |

It is now my pleasant duty on behalf of the Committee on Finance, Trade, Industry, Labour and Cooperatives to table this response for consideration and adoption by the House.

The Committee on Finance, Trade, Industry and Cooperatives received a statement request from the Hon. Francis Otiato dated 10th May 2018 where the Member sought a response on the status of implementation of the Siaya county project management committee(PMCs), with specific objectives on; (refer to *annexure 1*)

1. Whether project management committee members have been paid as per the provisions of Siaya county project management policy
2. Whether any savings were made by the county on the vote head and how much the savings is
3. How the county plans to expend and by when the accumulated savings –if any.

The committee during its sitting held, on 11th May 2018, resolved vide minute number FTLCL/26/5/2018 to write to the CECM – Finance, planning and Economic development to respond to the issues raised in the statement vide letter SC/ASS/CORR/C.EXC/18 VOL. XI – 20 dated 14th May 2018. Consequently, the committee received the response from the Chief Officer Finance and Economic planning dated 23rd May 2018 in which he responded as follows;

County Executive Response on the statement

1. That all project committee members in the County have not been paid. He cited inadequate documentation in the claims for payments as the reason for the delay in payments (*see annexure 2*)
2. Properly documented claims worth a total of Kshs. 3,015,000 have been received and are being processed for payments.
3. The response stated that since no payment has been made, they are not able to state whether there will be any savings from the payments.

Committee findings

Having keenly studied the response from the Executive the committee makes the following findings;

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

1. The response states that the PMCs have not been paid. The timelines for the non-payment is however not indicated. It is therefore presumed that the PMCs have not been paid since the advent of devolution(2013/14 to date)
2. The response states that the Executive is not in a position to establish whether there are savings from the PMC account. However, if the PMC account has been receiving deductions from project costs meant for PMCs, then the account should be having a specific amount as at today against which the claims received so far can be calculated and balances estimated as savings.
3. It is puzzling to note that since FY 2013/14 to date the department has only received claims from 13 wards out of the 30 wards in the County. The committee finds this information not actual
4. The manner in which the PMC claims have been presented in the response is not informative enough to enable the committee establish the exact amounts due for each PMC in a specific ward and for what period.
5. The response presents claims received so far at ksh.3, 015,000.00 but does not disclose the total balances/ amounts in the PMC account so far.
6. In a similar letter¹ on the PMC dues dated 8th March 2018, while responding to a similar request on PMC issues, the County Chief Officer in charge of Finance, stated that; (*see annexure 3*)
 - a. The PMC account had a total of Kshs. 110,031,525.66 comprising of Kshs. 22,714,652.60 and Kshs. 87,316,873.06 for FY2015/16 and FY2016/17 respectively. However he does not disclose the figures for FY2013/14, and FY2014/15
 - b. That the PMC funds were utilized in the FY2016/17 for payment of contractors due to liquidity constrains.
 - c. That the Finance department had reconciled the payments and deductions made from the PMC account and the same were to be refunded back to the account for subsequent PMC payments in the month of May 2018.

About PMCs

The concept of the Project Management Committees is meant to involve the views of the people in general execution of all projects and activities of the County Governments in line with the provisions of the Constitution of Kenya 2010 and related legislations on Public Participation. The concept is executed based on County specific legislations and policy guidelines unique to each jurisdiction but all in the fulfillment of the provisions of the Constitution of Kenya 2010 on public participation.

In November 2015, Siaya County Government developed and approved Policy Guidelines for Project Management Committees in Siaya County² to guide the implementation of

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

all projects within the County. The main objective of the policy was to; establish an appropriate management structure (governance) for projects.

The policy guidelines provides for; the definition of PMCs, Membership of PMCs, Roles of PMCs, PMC meetings, and Funding for PMCs.

Funding for PMCs

According to the Siaya County PMC Policy Guidelines, 2015;

- i. The number of PMC meetings shall not exceed 5 in the lifetime of a project
- ii. The meetings should be properly documented and paid in phases during the lifetime of a project
- iii. The PMC activities will be funded by a 5% project management fees.
- iv. The 5% will be a deduction of project funds from all payments made to contractors and shall be regulated by the CEC Member for Finance
- v. The PMC members shall be remunerated at Kshs. 1000 per member to cover lunch and transport cost
- vi. The County Government of Siaya officials who are members of PMCs shall however be given lunch allowances while on duty in the field by their respective departments at the official rates

Conclusions

From the a foregoing analysis of the available documentary evidence on the PMC payments, the Committee can therefore make the following conclusions;

1. It is evident that the County Government of Siaya has continually deducted the 5% PMC funds deductions from all project funds but it is not clear where and how the funds have been utilized
2. That the response provided dated 23rd May, 2018 on the availability of funds in the PMC account is contradictory to a previously issued statement on the same dated 8th March 2018 thus casting doubts on the actual availability of the said PMC funds.
3. That the claims listed are minimal considering that all PMCs for all County Government funded projects since the advent of devolution has never been paid(FY2013/14, 2014/15, 2015/16, 2016/17 and 2017/18)
4. That the PMC funds were utilized irregularly and it cannot be established with certainty the expenses funded using the PMC funds and the justifications of the same.
5. The figure presented in the response dated 23rd May 2018 of ksh.3,015,000 as PMC claims compared to the previously quoted PMC account balances of ksh.110,031,525.66 leaves a balance of ksh.107,016,525.66 that ought to be in the PMC account balance upon payment of the claims received. This is contrary to the response (2) dated 23rd May 2018.

Recommendations

1. The CECM –Finance, Planning and Economic development should avail to this Honorable House in the next 30 days a certified Copy of the PMC Funds Bank Account

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Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

Statements for the periods FY2013/14, FY2014/15, FY2015/16, FY2016/17 and FY2017/18; for purposes of oversight over the deductions of and utilization of PMC funds.

2. The CECM – Finance, planning and Economic development to provide a more detailed report in the next 60days of the specific project PMCs claims amount that have been paid in each ward and for which period, pending project PMC claims in each ward and period.

What I have read in this Hon. House was the response from the Executive and recommendations from our Committee Members, thank you.

The Temporary Speaker(Hon. Opanga):Hon. Otiato, are you satisfied with the response?

Hon. Otiato: Thank you, Mr. Temporary Speaker. Let me take this opportunity to appreciate the Committee on Finance because I am satisfied though not very much!

(Laughter)

On the part of the Committee doing their work this is right, because they have actually gone ahead to have Committee meetings and now here we have gotten some response to questions where somebody comes and read as if he is a transmitter reading for us what the Executive has said without even deliberations from the Committee which is good.

Where I have issue here is that, Mr. Chairman when we are saying that in the response we are being told that observation is right and we have been given days in which the money was given, but if you do an average just doing a simple arithmetic you will find that we have been having 30 million per Ward which if you do 5% of 90million that is multiplying 30 Wards by 30million by this number of years then you realize that we should be getting more money than we have here. And that's only on the 30 million we have not even talked about the Executives budget so the money we should be talking about here should not be in terms of 100 million but in terms of billions.

This is ridiculers and these guys in one way they respond by saying that they have not received claims from the Wards while at the same time they are saying that the funds were utilized to pay contractors due to liquidity constrains.

So if there will be claims where is the money and what is the role or how do we spend public money? How was that decision made that the PMC money be used to pay contractors? Was there a supplementary budget passed by the Assembly to actually prove that this money was utilized but as at now it stands out that the money was misappropriated and this is a root of corruption.

When the same department in the Executive who have employed Members according to the policy; the chairman of this PMC Committee is the Ward administrator who is an employee of the Executive. The secretary to this Committee is either the engineer or the health official who is also an employee of the County. Why are Ward admins not presenting the minutes and making requests which should be done periodically while the payments if possible should be done

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

monthly? So how many times this months have you met the PMCs and you do the claims because you are given one thousand per person for those period you meet?

Does it mean that the officers don't know what they are doing? And if an officer has failed to do his/her duty for the last 5 years what is he/she doing in that office? Sixty days is too much when the projects are going on and the PMC is waiting to be paid! The money is continuously being detached as we are closing one FY to another one. If you give another 30 days it means more money is being deducted and being misappropriated.

I think this is giving a lee way and this is what I have been saying that it is not an issue about Hon. Otiato or somebody else fighting the Executive. This is public money, so when somebody decides to use money tells us that he used the money to pay contractors. Our budget is a program based budget and there is no budget that will be passed without money.

Money has to be requisitioned then any contractor being given any tender only gets the tender when it has been proven that money is available and that it has been budgeted for. So this contractor being paid is he being paid for a project which was not budgeted for or what?

How I wish that these people could be brought to this House on General Oversight so that we have a one on one with them and it is also my request that with this petty things being done by the Executive because today it is another officer in this office giving us this response, so this officer having been used to steal money has been fired unceremoniously and we are not going to get

The Temporary Speaker(Hon. Opanga):Hon. Otiato, can you substantiate that the Chief Officer was used to steal money without any evidence that can hold? You need to withdraw the statement.

Hon. Otiato: Thank you, Mr. Temporary Speaker. I will substantiate by saying that if there was money to pay PMCs deducted from contractors and this money is not paid to these PMCs instead is being used to pay other contractors, that is stealing and I am not sorry about it neither will I withdraw!

(Applause)

The accounting officer who is in charge of this money was that person who was fired in fact not fired he is kept away so that we don't follow on what we are supposed to be investigating. He is supposed to be brought back to the office so that he can answer this questions, he is the accounting officer. I know we are coming up with another move into ensuring that this doesn't happen again therefore I request this House that as we are dealing with this matter note that the public is watching this games we are playing in Siaya.

If you are tired of being in this Assembly and want to go home and I know some of you are very eager to go because they know they will not be here. If you don't care I care! That's why I resigned from the police yet I still had 30 years to serve, I want to serve Siaya. I will still be here, that's why I care and I won't be part of you!

(Applause)

Mr. Speaker Sir, I only request that through the Committee you need to move ahead on this and --- so that we actually get to know that before 2015 when the policy was passed as indicated here the date when the policy was passed prior from 2013 was there any money that was redacted? And if it is we are not only talking about 100 million because if you do the math you get 45 million multiply by 5 years that is 225 million. So 225 million was saved from the PMCs into the Wards then we have got the Executive projects.

How much was saved from the Executive projects because the Executive budget is bigger than the Ward budget. So we are talking of about figures close to a billion that has been misappropriated and cannot be traced. Chair of finance as you do your good work don't give us 60 days or 30 days we want to deal with these guys right now, can you give us even a week?

The Temporary Speaker(Hon. Opanga):Hon. Emily Awita!

Hon. Awita: Thank you, Mr. Temporary Speaker, I stand here to complement the chair for a job well done but I support what Hon. Otiato has said. I think it is high time that the Siaya County office workers should stop the game of stealing money which is not good because it is a lot of money if count it. So I suggest and beg the chair to them about a week and bring them to book and if possible to this House so that we query them to bring back the money.

The Temporary Speaker(Hon. Opanga):Hon. Aringo!

Hon. Aringo: Thank you, Mr. Temporary Speaker Sir. I want to also commend the Committee for a job well done. It is disturbing just as Hon. Otiato has said that you deduct money meant for PMCs who come from the villages and have worked and equally need to be paid given that the monies have even been redacted from the contractors.

In fact it is unheard of and it goes against professional ethics for an officer of that caliber to return that money and pay another contractor. That to me is direct theft. It is my view that these committees are just denied their payment so that they don't supervise the work, so that the contractors can just work the way they want and I want to say that that is why all the contracts were not done to the satisfaction of the people. I support.

The Temporary Speaker(Hon. Opanga):Yes, Hon. Ambrose?

Hon. Akuno:Mr. Speaker, I don't know if you are going to hold account this finance person responsible. For my wish, I want these guys to come here, so that someone like Hon. Otiato asks these questions directly, because Hon. Otiato I just pray dearly, that if God can give us five more years I this House, I think we will reach somewhere.

First I am going to report this to anti-corruption. I don't know why we must just keep quiet and attend to these people. This is corruption, so accountability must start from here. Thank you, Mr. Speaker.

The Temporary Speaker(Hon. Opanga):Yes, Hon. Edwin!

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Odhiambo: Mr. Speaker, I also want to congratulate the team, which is the Chair and the whole Committee, for a job well done. I also want to congratulate the Hon. Member for Yimbo East; he blessed the Hon. Members with copies of these in this House, more so the Members who worked with Anti-corruption unit, sometimes back. We are going to achieve what we want.

Whatever is stated in this Report is very clear and I want to urge the Committee not to stop there, but move on to bring these people to this House so that we can as well ask them these questions.

By the time we are going to invite them to this House, whatever the Honorable Member that brought the Statement have just quoted in this House, give them exactly what they are coming to answer in this House, and let them not meander. Let them come with the full report of what has been asked, so that they give us an instant answer of what they are asked. Thank you and I support.

The Temporary Speaker(Hon. Opanga):Yes, Hon. Judy Patel.

Hon. Oyugi: Thank you Mr. Speaker. First I want to appreciate also the good work that the Chair and the Committee have done, also I want to state that the response from the Executive was very shallow, it did not have a timeframe, and it seems someone just sat somewhere for five minutes and gave us the response.

So I would like to applaud what the Committee has done, they did not just take the response and bring us in the House, it had a very good recommendation. These are public funds, and we as Members we have an oversight role. We cannot just accept that the public funds be misused as such. I would also like to support what Hon. Otiato said of their feedback, the time given for the feedback is too long, the sixteen days.

I would appeal to your Committee, give them one week, it is more than enough. They have these facts with them and they don't need 16 days. One week is enough to give their response, if it is not satisfactory, they will be brought here in the House so that we can also question them.

The Temporary Speaker(Hon. Opanga):Yes, Hon. Filly Onditi.

Hon. Akoth: Mr. Speaker Sir, I thank my learned Members so much today, they have done a good work, especially the Chair, I support what they have done so highly, them accordingly, bringing those people on board. When something is going on a wrong direction, we must hear and react. That is our work House; we have to bring them on board so that we deal with them accordingly.

The Temporary Speaker(Hon. Opanga):What is it, Hon. Truphosa?

Hon. Odinga: I must say I have never been happy in this House than today. Allow me to congratulate and thank my Chair on Finance Committee, and the Committee Members, and I am proud to inform the House that I am the only lady Member in the Finance Committee, As you all know that ladies are sharp, so maybe the background of this Report, was not the Chairman but the only lady in that Committee.

(Laughter)

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

So, can the House, while thanking and congratulating the Chairman, remember to congratulate the Finance Committee as well, otherwise, thank you very much Hon. Otiato, and I want to tell you that we are still on the Statement of the information we have brought in the House has not just ended there, I am already happy and proud. Thank you very much Mr. Speaker.

The Temporary Speaker(Hon. Opanga):Hon. Members, I hope you have all heard the discussion of the Report, and the Honorable Chair of Finance, you have also heard the request of these Members.

As per the periods that we had issued, it would have been directed to the Implementation Committee, after the elapse of the period but the sensitivity and the urgency of this matter, I direct the Chair of Finance together with their team, to do the few amendments on the timelines and then do a follow up and bring to this House within 3 weeks a comprehensive Report of the same. Thank you. Or you have something to add? Because I can you are smiling, as if you have?

Hon. Oduor: Thank you, Mr. Speaker sir, first of all I would like to commend the Members who have reacted to this Report, we are happy that we are happy that we have a watch dog in this House, may he continue so, a dispute should not let us down.

I agree with everybody who has talked about the timeline. There are some impediments that may not allow us to do it as fast as you think, this is because as you all know, we now have new Members that are coming in the Executive, that are supposed to respond to this.

If I request for four weeks, that is a Month, I think that would be enough, because of the technicalities, you know we still don't have the CO, at the same time, we will be needing the bank accounts and the statements from the bank accounts, that will also need some time. I know the matter is so urgent!

The Temporary Speaker(Hon. Opanga):What is it, Hon. Edwin?

Hon. Odhiambo:Thank you Chair, you know it is wrong to ask another Hon. Member, what is it! I just wanted to confirm to my colleague that we have a CO. You know an administration cannot run without a CO. Already we have a CO. His job is just to respond. Let the Executive respond, we don't want to know whether the CO is there or not. The Hon. Member should just do his job as required.

The Temporary Speaker(Hon. Opanga):Hon. Peter Oduor was on the floor, or have you concluded?

Hon Oduor: Thank you Mr. Speaker. I was just in my conclusion, the only think I was trying to ask for is four weeks, but I promise this House that we are going to do it immediately, we would like to get a response from them, so the sooner they respond to us, we will be back to the House with the answer.

The Temporary Speaker(Hon. Opanga): It's okay. The Chairman's response is final, let's give them the time that he has requested, and then from there, we will be able to now go through a full report and also be able to debate on it.

Also there was a request that if possible, we would like to have a full oversight meeting with the same people. That is a request that has been noted, and shall be acted upon. Next Order!

Wednesday, 20th June, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

MOTION
ADJOURNMENT

Hon. Members, will you be upstanding for the adjournment.

There being no other Business, this House adjourns until tomorrow Thursday at 2.30 p.m. in the Chamber.

The House rose at 3.00 p.m.