

Wednesday, 7th November, 2018 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA
SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Second Session

Wednesday, 7th November, 2018

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

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

PRAYER

NOTICE OF MOTION

AMENDMENTS TO THE STANDING ORDERS

Hon. Omwende: Thank you, Mr. Temporary Speaker, Sir. I beg to give notice of the following Motion:

THAT, **aware that** Standing Order 236 on the proposals for amendment by the County Assembly Procedures and Rules Committee states that *The County Assembly Procedure and Rules Committee may at any time propose amendment to these Standing Orders.*

Concerned that the issues of welfare of members require to be issued through party or interest group representation; this House **approves that** the Standing Order 199A (3) be amended by inclusion to the membership of the committee as follows.

199A. Committee on Member Services, Facilities and Welfare

The committee shall consist of a Chairperson elected by members of the committee, Leader of Majority Party, the Majority Party Whip, a representative of the minorities, independent members and not more than six other members who shall be nominated by the Committee on Selection and approved by the Assembly and shall serve for the entire term of the Assembly.

MOTION

AMENDMENTS TO THE STANDING ORDERS

Hon. Omwende: Thank you, Mr. Temporary Speaker, Sir, I beg to move the following Motion:

THAT **aware that** Standing Order 236 on the proposals for amendment by the County Assembly Procedures and Rules Committee states that *The County Assembly Procedure and Rules Committee may at any time propose amendment to these Standing Orders.*

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199A. Committee on Member Services, Facilities and Welfare

The committee shall consist of a Chairperson elected by members of the committee, Leader of Majority Party, the Majority Party Whip, a representative of the minorities, independent members and not more than six other members who shall be nominated by the Committee on Selection and approved by the Assembly and shall serve for the entire term of the Assembly.

(Question proposed)

(Question put and agreed to)

PROCUREMENT PLANS FOR ALL DEPARTMENTS

Hon. Otiato: Thank you, Mr. Temporary Speaker, Sir, I would like we rectify it. I can see an error there cognizant of the provisions of Section 104(1q) of the Public Finance Management Act, 2015 that requires a County Treasury to be reporting regularly to the County Assembly on the implementation of annual county budget;

Further cognizant of the provisions of Section 124 of the same PFM Act that makes it mandatory for the County Treasury to prepare and submit to the Assembly on any matter relating to responsibilities within fourteen days of the request;

Noting that Section 53(2) of the Public Procurement and Assets Disposal Act (PPAD Act), 2015 requires an accounting officer to prepare an annual procurement plan prior to commencement of each Financial Year as part of the annual budget preparation process;

Aware that Section 53 (5) of the Public Procurement Act 2015 bestows upon the CECM Finance the responsibilities of collecting and approving all procurement plans from each County department as an important part of budget process;

Concerned that those in the foregoing Financial Years, most procurement for development projects in the Wards were done hurriedly towards the end of Financial Year resulting into unprecedented roll-overs;

And **deeply concerned that** if left unchecked, the practice of crowding procurement of works for Ward development projects in the last two quarters of a Financial Year shall forever destine our Wards and the County generally to stunted development and poor quality of life for Siaya residents;

Mr. Speaker Sir, this House **resolves** that the CECM for Finance presents to this House under the auspices of Committee of General Oversight, all procurement plans for departments within 14 days inconsonance with provisions cited here above that is Section 124 of the PFM Act; and pursuant to enhancing the oversight function of this honorable House.

This particular Motion is in line with the procedures that we have been pushing on.

Hon. Temporary Speaker (Hon. Madialo): What is the resolution for the sake of the House?

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Hon. Otiato: Mr. Temporary Speaker Sir, it is my request that the House resolves that the CECM Finance presents to this House under the auspices of Committee of General Oversight, all procurement plans for departments within 14 days inconsonance with provisions cited here above and pursuant to enhancing the oversight functions of this honorable House.

Hon. Temporary Speaker (Hon. Madialo): You may now proceed.

Hon. Otiato: Mr. Temporary Speaker Sir, as I was saying, this particular Motion is in line with the war that we started on ensuring that this County we do our procurements within appropriate time. You realize that in the last FY like today we have a record of about Kshs.1.8 billion of projects that were not done, and it is in this House that you realize last FY all procurement were being done at the final edge that is the last final month to the close up of FY which is what is giving us this problem.

So it is a requirement of this particular Act that as much as we are doing the budget, each department by the time of appropriation needs to be giving us a plan on how they want to do procurement. I heard the other day one of our Hon. Members complaining that we have allocated monies in a Financial Year and it is now about one year down the line if not six months yet there is nothing that has been procured, and this is what we want to cure with this.

We want to know if these departments were ready to do procurement or were just asking for money to sit back. I would urge this honorable House while debating on this to look into the fact that in some discussions you will hear a head, a County Officer who is totally irresponsible for doing the procurement as given under the Act telling you that he is still waiting for the Governor to give direction when to do procurement. Then it means that in Siaya we don't have any procurement plans as is required within the first month of the budget.

We ought to be having this particular procurement plans as early as end of July of every year. To date that is my request that we be able to get these procurement plans so that we do a proper oversight by actually asking, "You were supposed to procure this road by this time, you were to do this by this time..." that makes it easy for us to follow up on how we are doing in development. Thank you and I would call upon Hon. Erick Odawa to support.

Hon. E. Odawa: By seconding the same Motion, I would like to add that I support his Motion and also emphasize the importance of early procurement that will assist us in terms of avoiding roll-overs and doing projects on time.

Secondly, it will equally avoid situations where by roll-overs are not implemented and funds of roll-overs being reallocated to other projects that were not in the initial Budget. I support.

(Question proposed)

Hon. Temporary Speaker (Hon. Madialo): Member for North Ugenya, Hon. Opanga.

Hon. Opanga: Mr. Temporary Speaker Sir. I rise to support the Motion, we are almost in our first Quarter of this Financial Year, and I thank the Hon. Member who has come up with this

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kind of a Motion because if this Motion would have come early after we had passed our Budget right now at least we would have planned in terms of the projects that could be on going.

As at now it is very unfortunate that we are at the tail end of this first Quarter whereas there are other Wards within Siaya County that haven't even spent anything within the Kshs.30 million that was allocated for the Wards.

I would urge even if the drafter of this Motion would have given one week because we are aware with the businesses that we have we want this thing to be fast tracked to enable us have a clear plan so that when we go to the second Quarter we are aware that the programmes that we had set out in the Budget will be running as per the expectations of the people we represent.

Secondly, this Motion is also good because it will enable us to relay information to the voters that within this period the procurement plan for this project has been stipulated within this time frame. It is easier for preparation and again it helps us to avoid the issues of roll-overs year in year out.

So this is a good Motion I would also urge my fellow Members to support it so that we kill the issues of roll-overs because even as we speak right now we still have 2015/2016 and 2016/2017 roll-overs totaling to about Kshs.1.8 billion that has not been captured and those are the issues that we are grappling with and I would urge my fellow Members to support this because it is for interest of the people we represent, thank you.

The Temporary Speaker (Hon. Madialo): Hon. Edwin.

Hon. Odhiambo: Thank you, Mr. Temporary Speaker, Sir; I also rise on my feet to support the Motion which is on the Floor and the reason I am supporting this is that we are here just because of the projects in our Wards and it has been a trend.

The course of this year it is here where we discussed that the procurement process be devolved to the departments. I don't believe what we passed here has been implemented and that is the cause of these delays in the procurement process.

I would also urge my Members that lets join hands in this Motion so that whatever has been mentioned by the MCA for Yimbo East is adhered to and therefore our project shall kickoff immediately. I would also wish that in the procurement process by the time they are giving these projects to the contractors could we also know the timeframe of which this thing is going to take and from the time the contractor will start the implementation of this project.

Otherwise if we can't support this Motion or in the near future or after five years we shall also get back home just as our colleagues whom we replaced.

Hon. Olasi: Thank you, Mr. Temporary Speaker, Sir; mine will be very brief. Apart from the Mover and the Seconder, the two Hon. Members that have just spoken are the Chairperson and his deputy for Committee of Implementation.

This is a good Motion and the prayer for Hon. Member for Yimbo East if granted I believe will be the prayer for everyone here. Good Motions have been passed here and we have the Chair of Implementation and his deputy; I am not blaming them but would ask the Hon. Members, where do we Members go wrong? Because I can remember sometime early this year

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the same Mover brought a Motion that was passed here; that how we wish procurement would be devolved to each and every department.

The contents are almost the same but not equal in nature; such Motions when agreed upon and implemented can really apart from enhancing our oversight role as much as I am not speaking for others or not talking about the document which is yet to be laid here. What will we oversight if you want to do two projects in two Wards with Kshs. 2Million.

If you as a Member elected or nominated; you will have nothing if very little in your Ward if all the warders indulge in the water projects under the department is done in one Ward, the roads in another being tarmacked.

What will we do with very little to oversight but if a Motion like this can see the light of the day like any other good Motions that have passed through this House and with speed to see to them that they are fulfilled if not they are accomplished or followed then I know we will go far ahead as a House. I support, thank you.

Hon. Opanga: Point of Order!

The Temporary Speaker (Hon. Madialo): What is your point of Order?

Hon. Opanga: I rise on a Point of Order, on what my good friend, Hon. Olasi who is also the majority whip has raised and I thank God that he is also a Member of a liaison Committee; that every Committee activity, every undertaking within every Committee within the Assembly has a timeline, has a programme that runs on a daily basis---

Hon. Olasi: Point of Order!

The Temporary Speaker (Hon. Madialo): Hon. Whip, can you have a point of order on a point of order? Hon. Opanga what you are submitting is also not a Point of Order.

Hon. Olasi: Mr. Temporary Speaker, Sir---

The Temporary Speaker (Hon. Madialo): Can you have a point of order on a point of order? But proceed.

Hon. Olasi: I just want to remind my good friend, the Chair of implementation that I am not in the Liaison Committee. If he is ready to tell exactly how these two Motions are going to be implemented the better for us.

Hon. Opanga: Thank you, The Temporary Speaker, Sir; before he became the whip he was the Chair for Tourism so he was a Member of Liaison Committee if I am not wrong but all said and done I know it would be the joy of this House that any resolution that is passed within---. The Temporary Speaker; through your guidance this Motion that my good brother Hon. Otiato has put across; it has a timeline of 14days and those Reports that have passed through this House and I will keep repeating those that are passed without timelines---

The Temporary Speaker (Hon. Madialo): Hon. Opanga what is your point of---

Hon. Opanga: At times Hon. Members might blame us but we are working behind the scenes; the Report will come on the Floor. Not that anybody will stand and complain about the Report that has been passed.

The Temporary Speaker (Hon. Madialo): Hon. Opanga I didn't hear Hon. Olasi say that you are behind the scene or even in front of the scene.

(Laughter)

Hon. Audi: Thank you, Mr. Temporary Speaker, Sir; I rise to support this Motion; this kind of Motion will help us identify some of the loopholes in procurement. It will also help us identify or detect in case some of the rules are not adhered to.

The Temporary Speaker (Hon. Madialo): I call upon the Mover to reply.

Hon. Otiato: Thank you, Mr. Temporary Speaker, Sir; let me take this opportunity to thank the Hon. Members who have contributed to this and as a House I would say that we are headed towards a good direction.

I think we have not been coming out with things which are law; we are just trying to follow the law as it is. Like now having to move this and if it goes through then I am going to be happy that in the next 14days, every Member will be having a copy of how all things that were budgeted for are going to be implemented.

If you are asked by any person you represent you can categorically say that this particular project will be started on this date and we will be done with it on this particular date. I have also observed the concerns about Hon. Edwin, Member of South Sakwa; especially when it comes to the issues of the timelines on this particular contract.

Generally; as we move forward that we have been doing things half hazard that even when we are dealing issues other than this procurement among the procurement processes when we are dealing with our words we don't even have a contract to summon these people and I would maybe think that in the near future as we move forward we will be coming up with more Motions to operationalize some of this.

You will realize that even in our Counties as we award Hon. Members you will check on those particular contract agreements between the County and the particular contractors, we should be actually having the period under which they are supposed to serve, in that particular job.

In that particular period, there is no contract agreement without indemnity clause, that if you delay, delivering this project at a particular time, you should be paying us as a County for the loss of this percentage, whether 1percent or 10 percent.

So that should be there, and in fact, because we have got such clauses, we would be asking very soon, on how much have we recovered from the contractors whom we have given and have not been able to deliver their jobs within a particular time.

So I thank the Members who have contributed and look forward, that in the same spirit, we put the procurement structures of Siaya in place. All of us, what we need is put resources, let the projects be done timely, and I hope with that we will all be assured of coming back here in 2022. Thank you.

(Question put and agreed to)

NOTICE OF MOTION

SECOND REPORT OF THE COMMITTEE ON SELECTION ON NOMINATION OF MEMBERS

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The Temporary Speaker (Hon. Madialo): Hon. Majority Leader.

Hon. Oor: Mr. Speaker Sir, allow me to give a Notice of Motion:

THAT this House adopts the Second Report of the Committee on Selection on Nomination of Members to County Assembly Committees laid on the table of the House today Wednesday, 7th November, 2018. I call upon Hon. Samuel Olasi to second.

Hon. Olasi: I second.

The Temporary Speaker (Hon. Madialo): Next Order!

MOTION

SECOND REPORT OF THE COMMITTEE ON SELECTION ON NOMINATION OF MEMBERS TO COUNTY ASSEMBLY COMMITTEES

Hon. Oor: Mr. Speaker Sir, I beg to move the following Motion:

THAT this House adopts the Second Report of the Committee on Selection on Nomination of Members to County Assembly Committees laid on the table of the House, today Wednesday, 7th November, 2018.

Hon. Speaker, having considered the provisions of the Standing Orders on nomination of Members to Select Committees, the Selection Committee has nominated the following Members to serve in the Committee on Members Services, Facilities, and Welfare pursuant to the County Assembly Standing Order number 199A.

1. Hon Peter Bernard Odero Oor
2. Hon. Samuel Olasi.
3. Hon. Samuel Siguru
4. Hon. Carren Ayika
5. Hon. Bernard Adala
6. Hon. Irene Shirley
7. Hon. Joseph Mboha
8. Hon Simeon Ousa
9. Hon. Joseph Wandera
10. Minority/ Independent rep.

In addition, the Committee has nominated Hon. Charlton Andiego- MCA Central Sakwa Ward, to serve in the following County Assembly Committees.

1. Budget, Appropriations, Planning and Vision2030
2. Appointments
3. Delegated County Legislation
4. Public Works, Roads, Transport and Communication

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COMMITTEE RECOMMENDATION

That this honorable House adopts the second Report of Selection Committee on nomination of Members to County Assembly Committees

I now call upon Hon. Audi to second.

Hon. Audi: I second.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Hon. Madialo): Next Order!

MOTION

ADJOURNMENT

Hon. Members, there being no other Business, will you be upstanding for adjournment?

Hon Members, there being no other Business, this House stands adjourned until tomorrow, the 8th of November, 2018 at 2.30 p.m. in the Chamber.

The House rose at 3.15 p.m.