

BARINGO COUNTY ASSEMBLY

THE HANSARD

The House met on Tuesday 21st March 2023 at 3:39 p.m.

The Speaker (Hon. Kemboi) in Chair

PRAYERS

The Speaker (Hon. Kemboi): Clerk!

NOTICES OF MOTION

REPORT ON COUNTY FISCAL STRATEGY PAPER (CFSP) FOR 2023/2024FY

The Speaker (Hon. Kemboi): Chairperson Budget and Appropriations committee.

Hon. Ernest: Mr. Speaker I rise to give notice of motion; Report of the budget and appropriations committee on the County Fiscal Strategy Paper (CFSP) for financial year 2023/2024.

That this House adopts the report of the budget and appropriations committee on the County Fiscal Strategy Paper (CFSP) for financial year 2023/2024 and a compendium of Sectoral Committee Reports on the 2023/2024 CFSP pursuant to the provisions of the section 117 of the Public Finance Management Act 2012, and Standing Order 211. I give notice.

The Speaker (Hon. Kemboi): I direct the substantive motion to be tabled before this Honorable House tomorrow 22nd March 2023 at 9:30 a.m. Another notice by Hon. David Sitei.

PROVISION OF EMERGENCY FUNDS FOR ESCALATING HUMANITARIAN CRISIS AS A RESULT OF INSECURITY

Hon. Sitei: Mr. Speaker sir, pursuant to standing order no. 46, I wish to give notice of the following motion.

Aware that article 29 of the constitution provides that every person has the right to freedom and security of the person, including the right not to be:

- (a) deprived of freedom arbitrarily or without just cause;
- (b) subjected to any form of violence from either public or private sources;
- (c) subjected to torture in any manner, whether physical or psychological;
- (d) treated or punished in a cruel, inhuman or degrading manner;

Appreciative of the provisions of the Constitution of Kenya enshrined under Article 26 (1) which protects the sanctity of life and article 28 which guarantees human dignity.

Noting that, H.E president William Samoei Ruto recently stated that the dangerously misguided idea that people acquire illegal arms and mobilize to commit criminal acts must stop,

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further noting that, the Government has put in place measures to classify bandits as terrorists so that the Government can deploy its machinery to combat the menace and it is also imperative to note that cattle rustling is classified as “modern day robbery with violence” and that the law need to be applied as such for all bandits and their sponsors,

alarmed that in the recent past, heavily armed cattle rustlers have ruthlessly and mercilessly invaded many parts of Baringo County notably Bartabwa ward, Mukutani ward, Saimo Soi ward and Mochongoi ward and caused terror, killings and vandalism of property;

further concerned that, similar attacks have also occurred resulting to enormous destruction of property, massive deaths, displacement of people and closure of learning and health facilities;

deeply concerned that the fierce gun wielding bandits have so far killed several innocent Kenyans, many are yet to be buried leaving residents in parts of Baringo extremely devastated, impoverished, displaced and schooling disrupted in the said volatile wards;

further concerned that the criminal activities orchestrated by these bandits have led to school drop outs as pupils and students drop out of school due to lack of school fees as their sole providers have been killed and their livestock stolen,

disturbed that should the situation not be arrested at the earliest instance, more damage and suffering will continue and people will continue living in fear of the attacks which has led to some students not going to college due to lack of school fees;

Now therefore; this motion urges the County Government of Baringo through H.E the Governor and the County Speaker to:

- 1) Utilize the emergency fund kitty to contain the escalating humanitarian crisis in bartabwa ward and other affected wards in Baringo and further engage non-Governmental organizations, civil society organizations and other agencies to supplement efforts by the County Government.
- 2) Consider setting up a special bursary kitty to cater for the funds to students from the affected families since their livelihoods have been destroyed by the perennial devastating effects of the deadly cattle rustling.
- 3) come up with data of all the affected families so that the County Government can be able to analyze and look for ways to assist them,
- 4) come up with an affirmative action to employ victims of banditry who have completed college and other tertiary institutions so as to fend for their families
- 5) create a fund that will go a long way to help the victims of banditry in terms of food, water and medical care as most of them are living in camps,
- 6) County Government to petition national Government to initiate a security operation in the area in order to flush out the perpetrators/bandits by forcefully conducting disarmament.
- 7) to County Government of Baringo in collaboration with the national land commission to urgently allocate funds for land demarcation in the five sub locations of Bartabwa ward and all other affected areas in the County so that each community may realize its own boundary

to prevent displacement of other members of the public and provide a legal framework for conflict resolution. I beg to give notice.

The Speaker (Kemboi): Hon. Members I am cognizant to the fact that tomorrow is the last working day in this session. We will be going for a short recess starting tomorrow and also considering that it's a matter of County importance there is need for us to set a day to discuss this issues. I direct that we shall have a special sitting on 28th March 2023. That's next week on Tuesday at 9:30 A.M to discuss the motion.

Clerk!

MOTION

REPORT OF THE PIC/PAC COMMITTEE ON THE AUDITOR GENERAL'S REPORT ON FINANCIAL STATEMENTS OF THE BARINGO COUNTY EXECUTIVE FOR THE YEAR ENDED 30TH JUNE 2019

The Speaker (Kemboi): Chairperson public accounts and investment committee. What's your point of order Hon. Keter.

Hon. Sharon: Mr. Speaker I rise on order 37(2) Mr. Speaker this document was supplied to us less than 30 minutes ago. It's a report on public accounts and investment committee on the report of the auditor general on financial statements of Baringo County executive for the year ended 30th June 2019

Mr. Speaker this is a serious document. Last week we had another document that was brought before us by the same committee and it was also voluminous. It was also supplied to us 30 minutes before time

Mr. Speaker the standing order states that the order papers shall be pasted on the website 12 hours before time and the supplementary to be given to members one hour before time this is a matter that I have prosecuted before. There is a reason why the drafters of this law did that. It was to give members time to go through a matter and elaborate. This will allow them to give a giver perspective on a matter. Mr. Speaker I propose that this matter is postponed so that we are given time to read. We don't have to be rubberstamps and just to pass documents that we have not read. Let me finish

The Speaker (Kemboi): She is on a point of order.

(Loud consultations)

Order! Hon. Sharon

Hon. Sharon: Mr. Speaker there was a reason why the law is drafted in this manner. It was to give members time to read through a document and form a perspective. My prayer Mr. Speaker is that you schedule this matter for another date so that we pass documents that we have read and understood. Thank you.

The Speaker (Kemboi): Hon. Kiprono.

Hon. Kiprono Thank you Mr. Speaker first of all I am a member of PIC/PAC. Secondly Hon. Members are fast learners. We have brought screens here and we will take them page by page and so I don't understand why you are worried. Mr. Speaker let us proceed with this motion. Thank you.

The Speaker (Hon. Kemboi): Hon. Lokales, what is your point of order?

Hon. Limo: Mr. Speaker, it is very bad for a Member of the Committee to the judge and at the same time prosecutor of the case.

(Laughter)

Therefore, I stand to support the point of order by Hon. Sharon Keter that you see this is an important and weighty matter in this County. This is an audit report that needs a lot of internalization and people even go for retreat to be told about such a report. I even wanted to request your office to give us a break of around 2 weeks and take us to Cheptebo or Nakuru so that we can go through this report. I even came across Ng'aina and Chewara dispensary in my Ward when perusing and I don't know when they went to do the audit. I have not even read so that I can positively contribute to this motion. Kindly consider our request.

The Speaker (Hon. Kemboi): Hon. Kigen

Hon. Kigen: Thank you Mr. Speaker. I support what my colleague has said that we really need time to go through this document. Recently, the same committee brought a report and I am now jobless.

(Laughter)

They stopped CAF funds and I am now jobless. I seek for time and if we continue this way we may find that the Assembly is closed.

The Speaker (Hon. Kemboi): Hon. Sitoi then Hon. Maria.

Hon. Sitoi: Mr. Speaker, we are now almost getting the way and we need to follow the Standing Orders. This is a very important document that we need to go through so that we don't just pass things in this House that we will later regret. I remember in a discussion before this session we mentioned that and to be specific, the Deputy Speaker said that Members will leave and few will remain to pass a motion that is very important. I don't think that is what we are supposed to be doing and just to be a bit lenient to the Members of PAIC, I propose that they read the report now and debate be put for another time.

The Speaker (Hon. Kemboi): I had given Hon. Maria but because it is a point of order...Hon. Alex I hope it is a point of order.

(Loud Consultations)

Hon. Alex: Thank you Mr. Speaker. I have come with the Standing Orders just to confirm that I am on point of order.

(Laughter)

This is a House of rules and as it has rightly been put by Hon. Sharon Keter, in Standing Order 37 (2), in your discretion we don't want to set bad precedence that we are supposed to put these motions in the Website and also supply Members with the hard copies an hour before. I feel like we should delay this matter so that Members can get sufficient time to interrogate the voluminous document and make proper deliberations.

The Speaker (Hon. Kemboi): Hon. Maria.

Hon. Losile: Mr. Speaker, I support the point of order by Hon. Keter on this voluminous report. Going through the report, I found out that I have not seen anything concerning my Ward. I don't know whether the committee was biased or if there is nothing good or bad in my Ward. Give us time so that the Committee may go and consider my Ward too.

The Speaker (Hon. Kemboi): Hon. Ng'otie, Hon. Tarus then Hon. Lemlem in that order.

Hon. Ng'otie: Thank you Mr. Speaker. I also stand on the same standing order 37 (2) that I have already noticed a red flag in this report similar to the CAF issue. That these Members are recommending that the person in payroll should adhere to the rule of two third and yet you know sometimes we overcommit our salary but we also have allowances it is a common logic that sometimes you want to save.

The Speaker (Hon. Kemboi): Hon Ngotie I want to remind you that these proceedings are live.

Hon. Ngotie: But there is nothing wrong with this. It is a common thing. We are live but I am not saying anything that is under the table. All of us know that you can over commit but sometimes you have other allowances which can take care of you. It is not a secret. When you recommend the next thing Chepsoi will just say you know you passed the other time in the Assembly. Let us read this thing before we come here and debate. Finally we agree and pass something that we are aware of. Thank you

Hon. Tarus: Okay thank you Hon Speaker for according me this opportunity to put my...

(Loud consultations)

The Speaker (Hon. Kemboi): Hon Members let us hear Hon Tarus in silence.

Hon. Tarus: To put my contribution on this particular motion. I gave just seen this document here, I have not interrogated it and therefore I want to go by what Hon Keter has said that we need to be given more time to interrogate this document. If you look at page 41 part four at the middle of that page it says the accounting officer of Baringo County Assembly enhance the capacity of members of County Assembly MCAs, committees to interrogate reports of the controller of budget oversight, scrutinize budgets and participate in the budget cycle effectively. Mr Speaker, I want to say that if we get the document 20 minutes or half an hour we may not really be able to go through it and scrutinize effectively. So I would request that that we need to ensure that we give these members adequate time. There will be no long term effect we have this particular motion coming later on maybe even after that short recess so that we can go through this document. Even the provisions of the Constitution 2010 on withdrawal of funds by the Baringo County Government entity.

Mr Speaker, we need to get empowered and I would suggest that we need to give time and you can even arrange for us to have some time together as members we go through the document together and look at the recommendations if the committee who have done a good job. We are not saying they have done a shoddy job. But we synergize together so that when we come here and have the report debated we will debate having full knowledge of what is inside and what we need to do as a House so that we make sure that we carry out our oversight role properly and we also make sure that we deliver on our mandate, thank you

The Speaker (Hon. Kemboi): Hon Lemlem.

Hon. Lemlem: Thank you Hon Speaker for giving me the opportunity, I actually want to support what Hon Keter has said but as we all know that these reports are very critical and gas timelines. What Hon Keter has done is basically lay down a procedure and issue around the procedure. The procedure on which we are required to lay document in this House. Ahead of the members. Mr Speaker this is a voluminous document and sincerely speaking members are very busy including myself, if you postpone reading of this document now I tell you I will put it in my drawer and I will go and deal with other ward issues. Mr Speaker, I want to propose that the Hon Member of PAIC takes us through the document we read the document with him while we are here then we postpone even proposing the question so that we can now internalize what he has taken us through we go and read the document at home again, you can even give us a week or two but what the members are doing here is that they are trying circumnavigate, I think maybe you provided us with good lunch and members might be a bit heavy and they want to ... otherwise thank you Mr Speaker.

(Laughter)

The Speaker (Hon. Kemboi): Hon. Lokorio.

Hon. Logorio: Thank you Mr Speaker I rise in support of the opinion of Hon Keter. I am also seriously considering the fact that this report is time barred. I am saying this because if you look at page 79 that is interrogating Barwessa slaughter House, the report was investigated and done in January 2023 and while I was today coming from my ward this is not the actual report. This report does not depict the correct position of things at the ground 0. The only problem that is remaining at the slaughter House is only piping of water and connection of electricity but these many problems are not seen today. We had a new contractor who has done the corrections and it is ready. Mr Speaker I am also interested because if you look at our surgical block in our BCRH yes that is the situation that we are in but already there are mitigations that have already been done. Mr Speaker I look again at Barwessa health centre.....

The Speaker (Hon. Kemboi) We had a new contractor who has done the corrections and it is ready, Mr. Speaker I am also interested because if you look at our surgical block in our BCRH... yes that is the situation that we are in but already there are mitigations, there are things that are already being done, Mr. Speaker I look again at Barwessa Health Center....

The Speaker (Hon. Kemboi): Hon. Members let us consult in low tones...

Hon. Lokorio: Mr. Speaker again I look at Barwessa Health Center which has been implicated here, the situation that is today is that we have a contractor on site already so this is not an actual

report so I support that we have the report be postpone to a later date so that we come and look at it later because we already have a different report from what we have here so I just want to agree that we postpone discussing this report, thank you Mr. Speaker.

The Speaker (Hon. Kemboi): Hon. Ernest.

Hon. Ernest: Thank you Mr. Speaker sir as I really sympathize with my friend Chair PIC/PAC and I don't want this discussion Mr. Speaker to take the direction of the Hon. Member from Barwessa and Chairperson of Health Committee, Mr. Speaker the discussion here is very simple, do we allow the report to be debated or do we go and have a look at the document, the message being given now by the Deputy Majority Leader is discussing the document which is not the right position.

Mr. Speaker I have listened to most of the members and I think they are buying in to the issue that the document is heavy, I am also looking to at it, we need time so that we debate objectively and that does not mean that the document is rejected, that should not be the picture, I think the discussion is that do we allow the debate to go on or do we give members time.

Mr. Speaker this is not emanating from anywhere, these members had an encounter with a report from the same committee and to some extend Mr. Speaker and in the spirit of togetherness we said "haay" later to only realize that there was something missing Mr. Speaker...

(Laughter)

Mr. Speaker you see the precaution Hon. Members are taking, Mr. Speaker already they are telling our payroll master to be strict on the two thirds, Mr. Speaker I think under the current economic harsh climatic conditions....

(Laughter)

Harsh climatic conditions of Kenya and everything plus the Azimio Maandamano... Mr. Speaker it is very difficult to adhere to some of this prudent measures like two third earnings, Mr. Speaker if we pass this law today the next day all these members will be incapacitated.

Mr. Speaker these are leaders of Baringo and they are the leaders who carry the heaviest burden, they are the high impact people on the ground who solve every issue, Mr. Speaker you would deny them that resource, you strangle them with legislations Mr. Speaker we will be in for trouble so Mr. Speaker I want to appreciate members for the keen eye because this source can be a very dangerous thing for the members, so give us time we read this document, we debate and the committee should be very cautious because there is a possibility of throwing out the report Mr. Speaker, thank you.

The Speaker (Hon. Kemboi): Hon. Members I have heard you and now I want to hear the committee before I issue my ruling the reasons for the failure to provide the report on time, this notice was issued last week, we then expected the report to have been supplied to the members within a good time, I want to hear from the members of this Committee before I deliver a ruling.

Hon. Sialo: Thank you Mr. Speaker and I want to appreciate the concerns from the members of this Hon. House and we will abide by your directive Hon. Speaker but I want to inform members that as the Chair and the committee of PIC/PAC we are guided by queries raised by the Auditor

General, we do not raise our own queries and give recommendations on the queries that were raised.

Mr. Speaker, after every financial year the Auditor General always come around and audit our books of account...

The Speaker (Hon. Kemboi): Hon. Sialo, I want you to restrict yourself to the following issues, first the notice of this motion was given last week on Wednesday. The Speaker who was presiding the session that day allocated today at 2:30 PM to be the day to debate on this Substantive Motion now the question that is being asked by the Hon. Members is why did it take so long for them to be given this report yet by the time the notice is being issued it is assumed that the report was ready, that is what I want you to restrict yourself to.

Hon. Sialo: Thank you Mr. Speaker, I stand guided, as you know Mr. Speaker the committee of Public Accounts and Investment is a serious committee and it is not just like any other committee, Mr. Speaker the report from the Auditor General and that of our committee as Public Accounts and Investment Committee sometimes have some very serious recommendations

So we are allowed to hold the documents because as we even now discuss that we let the document stay, everything will be in the public domain and based on our recommendations, some of us our life might be on a risk.

(Laughter)

So we thought it is good that we bring the document to the House and then we go through it as Hon. Members as oppose to letting it out, so that Members of the public including the contractors are given the information of what is going to be discussed and some of us might be even compromised and at the end of the day we might not have a quality report and not achieve what actually we intended to achieve, thank you Mr. Speaker.

(Loud Consultations)

The Speaker (Hon. Kemboi): Hon. Members I have heard the Point of Order raised by Hon. Sharon Keter and reiterated by many Members including Hon. Alex Kurui with regard to Standing Order No. 37 (2) that provide that; the Order Paper shall be published to the County Assembly website and shall be made available to the Members at least 12 hours before the House meets but a supplementary Order Paper shall be made available at least one hour before the House meets.

Hon. Members, the House Business Committee meets every Tuesday and the House Business Committee has been generous enough to all committees such that every committee is given time to give out the notice and given substantive time between the time the notice is delivered and the time substantive Motion is tabled in the House.

I will issue some directions here but that does not mean it relates alone to PICPAC but relates to all committee's report and any other Motion that shall come to this House. The first one is that; in the month of November 2022 a similar issue arose in this House. We reprimanded the secretariat for failing to provide the Members with documents in time.

When I give an opportunity to the Chairperson PIC PAC to tell us why it was not possible for them to provide us with this documents, he said it is because of the security of the Members and what have you. I am cognizant of the fact that some of these reports are sensitive but I am also cognizant of the fact that Members of this House need enough time so that there is no ambush and there are quality debates in this House. As such I want to direct as follows;

1. The House Business Committee; direction by House Business Committee shall be as follows and as such immediately a notice is issued the committee Chairperson together with the secretariat to ensure that all Members are supplied with a copy of the substantive Motion and any attachments if possible.

That means today afternoon two notices were issued. A notice was issued by the Chairperson Budget and Appropriation Committee and another notice was issued by Hon. Sitei. I want to direct the Clerk and all the officers of this Assembly to ensure that today by 5PM all Members have been supplied with the report from Budget. Let me just be specific about the report that I am talking about. This report of the Budget and Appropriations Committee on the County Fiscal Strategy Paper (CFSP) for financial year 2023/2024.

I want the report to be issued to all Members by 5 PM. I also want to direct the Clerk that by 7PM this evening, the said report should be in our website. Where does that leave us? Sorry before I move to the second issue. The other issue is the report by Hon. Sitei. If there is a Motion on the same, the same has to be forwarded to the Members by tomorrow 5PM and be uploaded in the website by 5PM tomorrow.

The question then is where does this leave us? Hon. Members we have 40 minutes to 5 PM and that means we have to allow the Clerk and members of staff to go and prepare and ensure that from tomorrow henceforth we comply and there is no debate about compliance. We are not going to discuss compliance and as such, I will have to exercise my discretion under Standing Order 1 and direct that this report by the Public Investment and Accounts Committee (PIAC), this one and the one which was to be discussed this afternoon; that the same be brought to this Hon. House on the 4th of April 2023 at 9:30am.

(Applause)

That does not mean that the report will not be discussed. It only means, all Members will have an opportunity to look at the report. You will have a short recess of 10 days. Go back to your community or Ward, look at this projects so that when we shall come back after recess we will be able to debate from a point of information. So that there is no doubt of what I have said, there is no mistake that has been done by the Public Accounts and Investment Committee (PIAC). It is an oversight that has to be rectified and it has to start somewhere. It is quite unfortunate that it has to start with this Committee.

The Members of that committee will have to agree with me that, for us to have order it has to start somewhere and the order starts now and as such I direct that this report shall be brought to this House on the 4th of April 2023 at 9:30am.

(Motion deferred)

ADJOURNMENT

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Order Members, this House stands adjourned until tomorrow 22nd of March 2023 at 9:30am.

The House rose at 4:36 PM.