



THIRD ASSEMBLY - THIRD SESSION

KISUMU COUNTY ASSEMBLY

VOTES OF PROCEEDINGS

TUESDAY 11th JUNE, 2024 AT 2:30 P.M.

1. The Assembly assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with a prayer said by the Speaker
3. **COMMUNICATIONS**

The Chair made the following Communications:

A. THAT the FESTAC that was postponed due to flooding has been scheduled for August 23rd , 2024 to take place in Kisumu County. In this regard the County Assembly has been honored to take part in the games preferably football on the first day of the games.

The Committee on Sports is hereby directed to make necessary arrangements.

B. THAT a Communication is hereby given in regards to the Statement sought by the Hon. Seth Kanga as follows:

“Honorable Members,

- 1) This Communication relates to a matter on procedure relating to the manner of seeking Statements from the Chairpersons of Committees. As you recall, on Wednesday 29th May, 2024 during the Afternoon Sitting, the Member for Milimani Ward, Hon. Seth Kanga rising on Standing Orders No. 41(2) (b) sought a statement from the Chairperson of the County Assembly Service Board.

Honorable Members,

- 2) I wish to mention at the onset that the Procedural provisions on Statements in our standing orders is expressly provided for in Standing Orders No. 41 (2) (b) as follows:



*“a member may request for a statement from **a Committee chairperson** relating to matters under the mandate of the Committee and the Speaker may appoint a day for the statement to be made or direct that the statement be issued on the same day.”*

- 3) From the Standing Orders No. 41 (2) (b) it is immediately observed that a statement may only be sought from a Chairperson of a Committee and that the committee referred pursuant to this Order is a Committee within the contemplation of Standing Orders No. 193 or orders providing mandates of Select and Procedural Committees.
- 4) Be informed that it was in the mind of the drafters of these Standing Orders that the Committee contemplated in Standing Orders No. 41 (2) (b) must be a committee with the capacity to perform functions which, the County Assembly in session is not fitted to perform in its corporate form.
- 5) And, whereas Standing Orders No. 41 (2) (b) also connotes with it a right of members to seek a statement from Committee Chairpersons, such right is not without limitation.
- 6) It follows therefore that a statement sought pursuant to Standing Orders No. 41 (2) (b) must:
 - i. be sought from a Chairperson of a committee established in accordance with the Standing Orders; and
 - ii. be on matters within the mandate of the Committee.
- 7) Thus based on the Statement sought by Hon. Seth Kanga, I find that the Statement was sought from the Chairperson of the Board and as a matter of right, the Hon. Member ought to be responded to. However, having noted that the reading of standing orders no. 41 (2) (b) contemplated a Committee, the Board being a corporate body pursuant to Section 12 of the County Assembly Services Act, 2017 is in itself neither a creation of the Standing Orders nor a Committee of the County Assembly within the meaning of Standing Orders No. 41(2) (b).
- 8) This Honorable House only then need pose that in what manner or within what procedure is the Chairperson of the Board to respond and/or provide the statement to the Hon. Seth Kanga.

Honourable Members,

- 9) I have also observed that from the reading of Standing Orders No. 41 (2) (b) there may be an attempt from this House to bestow upon the Chairperson of the Board the capacity to respond on the floor as any other Chair of a Committee since the Chair of the Board is the



Speaker of the Assembly and that some members of the Board are also Members of the County Assembly.

- 10) However, I find such attempt to be unprocedural and therefore voidable pursuant to the Standing Orders. Since by bestowing such powers to the Chair of the Board to respond on the Floor of the House, this House will immediately injure the corporate veil of the Board pursuant to Section 12 of the County Assembly Services Act, 2017 which will then raise an assumption that the Board is in itself a committee within the contemplation of the Standing Orders No. 41 (2) (b).
- 11) I further wish to note, that the corporate character of the Board does not immunize the Board from the County Assembly oversight but instead places it within the County Assembly oversight reaches pursuant to Article 185 of the Constitution, Section 8 and Section 9 of the County Governments Act, 2012; provisions which are consequently given effect by Section 36 of the County Assembly Service Act, 2017. Thus, the Board like any other corporate bodies within the County Government may only be oversights as a 'sector' by a relevant County Assembly Sectoral Committee.
- 12) It is thus found that even though the statement had been raised and consequently committed to the Board jointly with the Committee on Labour, the manner of committal being an attempt at remedying the procedural breach that was already committed is in itself not an appropriate remedy but further acerbates the breach that had already been committed.
- 13) The committal of the statement is but a declaration that the Labour Committee and the Board being jointly committed to handle the matter are legally equal. This is acutely not legally sound since one is an instrument of oversight while another is a corporate body with the power to sue and be sued and therefore is to be oversights like any other Corporate body within the County Government as 'sector' within the meaning bestowed on Sectoral Committees pursuant to our Standing Orders.

Honourable Members,

- 14) You will also recall that on Thursday 22nd February, 2024 I made a ruling in regards to the procedure for Statements particularly on the procedures that are to be fulfilled before a statement is sought on the Floor of this House.
- 15) I only need remind this Honorable House that the Ruling was necessitated by the need to guide this House on the manner of handling Statements. And where I drew on a full range of procedural information and examined the precedents of parliament to determine



how the rules of procedure have been applied and interpreted in the past in relations to the manner of handling statements.

16) In the ruling made on Thursday 22nd February, 2024, I ruled as follows:

- i. THAT all statements shall be serialized for purposes of record keeping and;
- ii. THAT the House Business Committee shall approve all Statements and schedule the same on the order paper.

Honourable Members,

17) I have therefore further found that despite the earlier mentioned procedural breaches of the Statement sought by the Honorable Member for Milimani Ward, the Statement additionally did not fulfil the basic procedures established pursuant to the ruling made on Thursday 22nd February, 2024.

18) For avoidance of doubt, I need mention that the Speaker's rulings constitute precedents by which subsequent Speakers, members and officers are guided and such precedents are formulated as rules of procedure or followed as conventions of this Hon. House.

19) Therefore, in order to further the oversight intent of the Hon. Seth Kanga pursuant to this Statement and remedy the procedural breaches already mentioned, I wish to direct:

- i. THAT the Statement be sought procedurally both in its contents and manner of seeking Statements in accordance with Standing Orders No. 41 (2) (b) and the Speaker's ruling made on 22nd February, 2024.
- ii. THAT the consideration of the Statement is temporarily deferred awaiting new submission in accordance with the Standing Orders.
The House is guided accordingly.

C. THAT the House convene for a Kamukunji immediately after the Plenary sitting.

4. PAPERS

- I. Report on the Status of Projects within the County by Hon. Samuel Dede (Chairperson Committee on Water, Environment and Natural Resources)



- II. Report on the Implementation of the Resolution of the House on the matter of pending claims of Retirees of Difunct Ahero Municipal Council. (Hon. James Were; Vice Chairperson, Committee on Implementation.

5. **NOTICES OF MOTION** (Standing Order No. 45(1))

- I. Report on the Status of Projects within the County by Hon. Samuel Dede (Chairperson Committee on Water, Environment and Natural Resources)
- II. Report on the Implementation of the Resolution of the House on the matter of pending claims of Retirees of Difunct Ahero Municipal Council. (Hon. James Were; Vice Chairperson, Committee on Implementation.

6. **STATEMENTS**

- i. Statement on the Business of the House for the week commencing on Wednesday 12th June, 2024.

(Hon. James Omollo on behalf of the Leader of the Majority Party):

COMMENCEMENT OF BUSINESS

(No Order read;)

8. **ASSEMBLY ROSE** - at twenty-five minutes past 3.00pm.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, June 12, 2024 at 9.00am*

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