

MURANG'A COUNTY ASSEMBLY

THE HANSARD

Tuesday, 29th September, 2015

The House met at 2:40 p.m.

(The Speaker Hon. Nduati Kariuki in the Chair)

PRAYERS

MOTIONS

SPECIAL AUDIT OF THE PENDING BILLS AND COMPLIANCE ASSESSMENT OF ALL PROCUREMENT PROCESSES

Hon. Charles Kirigwi: I beg to move the following motion;-

Aware, that corruption and mismanagement of public funds is robbing Kenya about Kshs. 270 billion annually, approximately one third of the national budget, further aware that this trend has trickled down to the county governments, cognizant of the glaring anomalies in the pending bills report submitted by the County Executive Committee Member for Finance, IT and Economic Planning, which indicated that the current status of pending bills amount to Kshs. 2.5 billion, recognizing the need to curtail further loss of public funds, noting that most of the pending bills were incurred without following the right procurement process as provided for under the Public Procurement and Disposal Act No 12 of 2013, this House resolves;

- a. That, the Auditor General undertakes a special audit of the pending bills owed to creditors for the period 1st July 2013 to 30th June 2015;
- b. That, the Public Procurement and Oversight Authority undertake a compliance assessment of all procurement processes relating to the pending bills owed the creditors for the period 1st July 2013 to 30th June 2015.

Mr. Speaker, my motion is motivated by what has been going on in the media, we have heard our Governor saying that the county only owes creditors Kshs. 1 billion, we have heard our County Secretary communicating to the Assembly that there is Kshs. 1.5 billion that has not been received from the Treasury, we have heard the report that was tabled by the committee of Finance indicating that the bills owed are Kshs. 1.8 billion and Kshs. 600 million in terms of progress. Going by all this I think it is good and important for the county to ascertain the true value of the amount that we owe so that we will not have conflicting figures given by different offices.

When we looked at what was given by the Finance committee, one could note glaring omissions, it is important as an Assembly that we resolve to have the input of the Auditor General to undertake this Audit. I have a lot of confidence with our committees but we may not be competent enough to go into forensic audit of whatever is happening up there. As much as we will capture this in the committee level, I think it is important that we invite the Public Procurement and Oversight Authority to come and give some input so that we will be able to move together as a government.

Mr. Speaker, we have been reading in the papers that Governors, through the chair of the Council of Governors, Hon. Munya are resisting going the IFMIS way. I think going forward, as a government we must put our feet down and demand to do what the national government demands us to do. If it is IFMIS, let it be IFMIS.

In our figures, we have seen bills that have been incurred on a specific vote and exceeding the budgeted amount with 20 times. There is need to involve these institutions and any other that can assist to put our house in order so that we may have value for our public funds. I call Hon. member for Gitugi to second the motion.

Hon. Duncan Njuguna: I second the motion. Noting that as the mover has said, corruption has trickled down to the counties. If not well checked, it can rub the county governments in the wrong way. When the American President was here a few months ago, he said that through corruption, the country is losing 250,000 jobs annually and that is why the mover has come up with a Kshs.270 billion as the figure that the country is losing annually. I think it is more than this. Two or three years ago it was more than Kshs. 300 billion per year, having the county government in place.

I remember there was a motion that was brought into this House; we deliberated on the same to deal with the procurement process and the bureaucracies in that office. Issuing the LPOs is a big headache and since the same is controlled by the department, it was not fully implemented the way the mover desired Mr. Speaker.

As the mover had stated, if the procurement functions were devolved to a sub-county level, we could have seen a working government. That is why the spirit of the motion was to devolve procurement and stop the queuing that happens up there because of the projects they want done in our wards.

Having this good motion, especially part b where he is talking about Public Procurement and Oversight Authority to undertake a compliance assessment of all the procurement processes because it is in the procurement department that we have gotten to this mess because of the pending bills, there was no control on the way the procurement was done.

Even if it is not Kshs. 2.5 billion, even if it is not Kshs.1.5 billion, even if it is Kshs.1 billion as the County Secretary is claiming, even if it is Kshs.100 million or Kshs.500,000, it is a debt, a pending bill which is supposed to be honoured by the county government. How the debts came to be is questionable, that is why we want an independent audit from the Auditor General and also the Public Procurement and Oversight Authority to do that so that we can ascertain the amount owed because it might even be bigger than we think because there was no control on the vote-book.

When money is requisitioned from the Treasury, there is no control, that is why the mover has talked of IFMIS and e-procurement which they were supposed to start using as early as last week but they did not. That is why they went ahead through their Council Of Governors to stop the same because they wanted to do business as usual, how they would requisition for money and then withdraw, and use it on projects that are not budgeted for,

Mr. Speaker, to stop this and the increase in pending bills, it is good for this House to pass this motion, so that we can stop this menace, once and for all, because, if we do not do it now, it will be too late to do it tomorrow.

That is why as all of us know, the bulk of it, 80% to 90% is in the infrastructure department where at times it is even impossible to account for it. If they are going to go down to various roads in the county, especially now that we are waiting for the El-nino rains, by the time they go, they will find that all the roads that were graded or gravelled will have been damaged. It will be difficult to account for the same because; I do not know whether the department of infrastructure has checked the number of kilometres done for the last two fiscal years. Therefore, it is good for the two bodies to audit these works.

I concur with the mover, it is not because the sectoral committees are unable to do this, but when they are still doing this, let us have two independent bodies that will do so, so that we can compare the two reports and see the true picture of the situation. With this, I urge the hon. members to support this motion so that we can have the two bodies in place to do the audit as required. I second the motion.

(Question proposed)

Hon. Samuel Wandia: Thank you Mr. Speaker sir, I represent Muthithi ward and I am the vice- chairman of the Finance committee. It is true that we received information from the public, especially the contractors that they have not been paid for some time. When we heard that outcry, we took measures as a committee by requesting the Executive to confirm to the Finance committee the debt level of the county. When they responded, we noted that the debt level of the county was getting to Kshs. 2.5 billion and we were very astonished.

Mr. Speaker sir, we started questioning ourselves how those debts came to be. One of the reasons we thought of was the poor usage of the budget. If you go to an institution that follows the budget to the letter, you will not find such situation. A budget is a tool of control, but where abused, such are the glaring results you find. If Murang'a county was a company, it could have been insolvent by now; it could not be in operation as we speak.

This year, we are expecting to be financed with a level of Kshs. 3.1 billion and given our debt level that is Kshs. 2.5 billion, we will be left with Kshs. 0.6 billion if we are going to settle all those debts. That is the money for development we will be left with for the financial year 2015/2016, that we are in currently. That is not our expectation; our expectation would have been to utilise Kshs. 3.1 billion for development.

Mr. Speaker sir, I urge the members to confirm whether the works have been done to the tune of the debts provided for every ward. I think that has already been communicated by the Clerk Assistant who serves the Finance committee. We are also asking the committees we have to confirm the debt level owed to their respective departments. Once that is done, it will enable this House to take a firm decision with regards to what we are expected to do. I am actually surprised because borrowing is provided for in the Constitution and the counties are allowed to borrow. The county government should have approached this Assembly to resolve that they borrow to a certain tune that is allowable. If that was done, our debts could not be this much.

Whenever the National Assembly falls short of finance, they always borrow from the public, the bank, or anywhere else. Indeed, the hands of this county are not tied to seek for funds every year from the central government or from any other source. We could therefore have controlled our debts. Going by the figures, it is also important to note that the debt level is Kshs. 2.5 billion. This year, we have been given Kshs. 6.2 billion by the central government, excluding the local collections.

Mr. Speaker sir, when I look at this figure and compare with what the ward I represent- Muthithi- was allocated, you will find the figure to be less than Kshs. 30,000,000. If the members of this Assembly are honest, I doubt if there is any ward which has been allocated Kshs. 100,000,000. I do not know; it is for the members to confirm. This is not a laughing matter because Murang'a is bigger than any of us. It is the high time that this Assembly took a decision bearing in mind that this county is bigger than Wandia, the Speaker, or any other person who lives in Murang'a.

Mr. Speaker, we have been mandated by our constituents to take a firm decision so that such situations will never arise in future. I thank you very much for giving me that opportunity and I hope that members will support this motion. We shall not relent as we wait for the forensic audit to be done; we are going to carry on with our oversight role. Thank you very much Mr. Speaker sir.

Hon. Mary Waithira: Thank you Mr. Speaker sir, I stand to support the spirit of this motion; the mover is requesting for support so that we fight this big monster which is encountered right from the national government all the way to the county governments. This is one of our noble jobs because we swore that we are going to defend the spirit of the Constitution which has given birth to all the other Acts we swore to defend. Therefore, this House should make sure that we are not supporting whatever is happening.

Mr. Speaker sir, when you look at the Kshs. 2.5 billion, you notice that it is a lot of money. I compare it to an equivalent of almost what the national government is giving to Kirinyaga county as national revenue. Kirinyaga county is given almost nearer or slightly above Kshs. 2.5 billion. If such a county operates the whole year with such an amount, then you can see why we are saying that this is a lot of money to have as debt. We understand that this is what was given to the Assembly by the Executive. We really wonder because most of the times you are required to disclose the debts, you do not disclose everything; you bring that which is almost grey to the members of the public. We therefore understand that it may not be Kshs. 2.5 billion.

That is why the mover is requesting for the support of the Auditor General to undertake a special audit. We can look at these pending bills and maybe others that were not revealed to this Assembly so that we can see how much we owe our creditors. We should not forget that many of the creditors are residents of Murang'a. Therefore, we would like to join hands to support this motion because many of these contractors and merchants have used their Local Purchase Orders (LPOs) to procure loans in banks. They are, at the same time, being subjected to banks taking the only security they gave as a result of not paying those bills.

Mr. Speaker sir, if you look at the Public Finance Management Act (PFM), there is a provision for discipline and prudent usage of our money. This money does not belong to an individual; it is supposed to be subjected to the development and service delivery of our people. The moment that is not done, this Assembly should do something to ensure that it is done. I do not know the weight that we are going to put as we request the Auditor General's office to come and carry out a special audit. I remember the Public Investments and Accounts Committee (PIC/PAC) wrote many letters to the Auditor General to come and carry out a special audit for us with regards to the shillingi kwa shillingi.

We need to put some weight so that we realise the spirit of this motion. We should not forget that when the Public Procurement and Disposal Act was brought, it was meant to spell how we are supposed to go about with contracts and any other service in the government. When you look at the Public Procurement and Disposal Act, you will realise that we are going against its spirit. That is why the spirit of the motion is talking about the Public Procurement and Oversight Authority undertaking a compliance assessment to see how our Executive has affected that.

Mr. Speaker, I think that is why we are seeing many of the contracts being split. Why are we splitting? That is against the spirit of the Public Procurement and Disposal Act. We smell a rat the moment we see the splitting. I also remember there was a time we were asking whether we have modalities of inviting those contractors who have been pre-qualified every end of the year. Why split and use quotations having not spelt out the contractors? Maybe that explains why many of the contracts are going to many contractors who are pre-qualified having spent a lot of money in preparation of the bid documents. They are not been invited anywhere year in year out. I am therefore supporting the same.

The chairman for the committee on Implementation should move with speed and make sure that this motion sees the light of day. If the same happens to the many motions that we have passed in this House, it may not be followed closely; hence be assured that it may not see the light of day. This motion is really looking into how these debts are and how the procurement is done. I wholly support the spirit of the motion and this House needs to do the same.

Mr. Speaker, we also make a special request to the committee on Implementation to move with speed to see to it that this motion is implemented so that the people who are owed bills may be sorted out. We will also make sure that those people who are coming for annual

pre-qualification in our county will start being recognised whenever quotations are being raised. I support.

Hon. James Kariuki: Mr. Speaker sir, I rise to support the motion mainly because as much as we have committees of the Assembly which can do this work, I personally do not think that it is very easy for us to do the necessary forensic audit the way the Auditor General's office and the Public Procurement and Oversight Authority can do. I think we have technical experts in these two offices who are very well versed on matters of audit. On that basis, I am actually supporting this motion.

Mr. Speaker, corruption in our country as well as county is the elephant in the room. I said here that one of the things that will make us reduce corruption significantly is electronic technology and public awareness.

If the public is aware what is entailed in the budget and what their role is, it will be very easy to deal with matters of corruption because they will ask the necessary questions.

We are often told about the wage bill but in my view I think most of the money whether in the county or in the whole country is lost through tendering and procurement, and I think if we can be able to cure the problem of procuring and tendering I think we will be able to cure the whole issue of corruption 50%.

Mr. Speaker the greatest problem in this county is that our budget is not followed and what happens is that we give roadside declarations which consume a lot of funds outside the budget estimates. I think we should restrain from this and that is chief executive of this county should refrain because this is what has affected our budget and also has caused these pending bills.

There is no country or county that does not have debts, it is quite in order to have debts but the way you manage those debts, that is questionable. If these county governments for example were to follow the national government and especially the three roads agencies that is Kenya Rural Roads Authority (KeRRA), Kenya Urban Roads Authority (KURA) and Kenya National Highways Authority (KeNHA) and the way they give contracts and immediately after the contract is finished you are paid, this problem would not be there.

I am convinced that the county governments all over the country, Murang'a included are not following the right procedures. Because if they are these pending bills of Kshs. 2.5 billion would not be that much, there is nothing wrong in borrowing but it is the way you manage the debt that is questionable.

So Mr. Speaker, I support this motion because as I said earlier I think as much as we have the committees the two bodies have the requisite technical capacity to do a proper forensic audit. Like in my agriculture committee we looked at the debts but we could not tell whether they are true or not. Because it was quite a big amount it was Kshs. 270 million around that figure, but if I am asked how exactly were these debts incurred, it requires going through a lot of bills, receipts and all that. Mr. Speaker I support the motion, thank you.

Hon. Peter Kihungi: Thank you Mr. Speaker, I stand to support the motion. I wish to disagree that we must have debts, the PFM Act puts it very clearly if the county government wants to incur any debt first of all we must have an approval from the Assembly.

The Public Procurement and Disposal Act states very clearly that you should not award a contract unless you have an approved budget for the same contract. It further says that you should not give out a contract until you are sure you have money before you award the contract. Now where do the debts come from? And we are allowed to do supplementary in the course of the time whenever you find you want to do this and you do not have money you borrow from one project to the other.

When it comes that we have debts I do not understand, they have to explain because any debt should be approved by the Assembly. The issue here is ignorance on procedure and

budget. And that is a very serious mistake that our people have taken it as a way of life and they are doing it very comfortably and if we go this way we are going to take our county to lawlessness, nobody cares about the budget, nobody cares about the PFM Act and nobody cares about the Public Procurement and Disposal Act.

I wholeheartedly support the motion especially when we talk about the Public Procurement Oversight Authority to undertake compliance assessment because we might be having enough staff in the executive but they do not know about these laws; those do not deserve to be in those offices.

If we allow them to continue to manage our county at the end of the day our county will be going to where Moi had taken Murang'a because we will be going against the priority of the people of Murang'a and the priority of the people of Murang'a is in the budget and we budget for the money we have. We get six billion from the national budget then we are asked how much are you able to collect and we say we are able to correct 850 million. Now where does the deficit come? Our budget does not have a deficit.

It can allow if in our budgeting it clearly shows that we have deficit. Out of the deficit the chances are high that some contracts or some of the things might not be achieved. But clearly it is said and this is from the Controller of Budget, the budget should not have a deficit. Now where do we incur debt from? It is incurred because of ignorance of the Public Procurement Act. Therefore, if as an oversight body we allow them to continue doing it as a way of life at the end of the day we are the ones who will be blamed.

Therefore Mr. Speaker, as early as possible we call upon the Public Procurement and Oversight Authority to do this assessment. First we know whether the procurement office at the executive is up to task. If it is not up to task we change it as early as possible because we will mess up our county silently here being careful that we may not hurt somebody.

You now hear the executive say we do not have debts then the same office forwards a list of Kshs. 2.5 billion now who do we believe. We cannot get information from there we now need the Auditor General to clarify to us do we have debts.

I support it clearly and I wish this one is taken to constitutional bodies, the Assembly should forward this motion to the same constitutional bodies to start working on it because if you give the executive and they know they are the problem they will not implement it. But when you take to constitutional bodies the Public Procurement Oversight Authority and the Auditor General's office, I know it will be acted upon and it will set order in our county. Therefore Mr. Speaker, I support the motion.

The Speaker: Mover to respond.

Hon. Charles Kirigwi: Thank you Mr. Speaker, I must say that I am very happy for the support the members have shown in their contributions and I believe as most of them have said, this motion is not urging the executive to do the resolution, I believe our clerk will do the necessary let it be our baby and not the executive.

I agree with all the members and in fact if we do not go this way today, history will judge us harshly that during our time we watched things go wrong and we never worked on them. I think we need to streamline the system so that even for the leaders who will come tomorrow after we leave office will have systems that are streamlined following procedures.

I have been called severally by contractors who have worked in my ward and they have been calling me to assist them get LPO's. They have already finished the job and they do not have LPO's. I know we may have several cases like those ones and I think it is important that from now hence forth let procedures be followed so that we do not have as the chairman for Agriculture said, we do not have roadside declarations.

I urge members to support this motion, I also know the executive has also been called and I know several members of the Assembly have been called by contractors asking the

Assembly to assist them get paid. If as a government we embrace IFMIS we do not have to assist anyone get his payment after he does his job. I understand they are paid in relation to who is who with the chief executive of this county.

I think we should have fair queuing system as we go on with IFMIS, we should have a queuing system so that we agree this time we are going to pay number one to ten and then they are paid without any undue influence. I pity those who paid their bonds and they committed their money to may be performance bonds to come and pay

(Hon. Duncan Njuguna rose on a point of order)

Hon. Duncan Njuguna: Mr. Speaker sir, is it in order for the mover to re-debate on a debate you have requested him to respond.

The Speaker: Yes, I think we should get used to purpose of the mover responding. The mover responds to answer any queries that have been raised by the members during their debate. You are not re-opening the debate.

Hon. Charles Kirigwi: I am guided Mr. Speaker and going by the mood, I know members want to finish with this important debate so that we can allow the office to execute the resolution. I urge the members to support, thank you.

The Speaker: Now before I put the question, I just like to note one thing and I think the mover you have spotted it. That this motion does not indicate who is to take the action, it says that the Auditor General undertakes a special audit of the outstanding bills and that the Public Procurement Oversight Authority undertakes compliance.

I do not know but I think the proper wording should have been that this Assembly requests the Auditor General to undertake the audit. So that if the clerk writes he has the power of this Assembly.

So if you do not mind this is my suggestion that it should read that this Assembly to request the Auditor General to undertake. Can you respond to that?

Hon. Charles Kirigwi: Quite guided Mr. Speaker I also concur with your advice.

The Speaker: Thank you

(Question put and agreed to)

The Speaker: The House adjourns until tomorrow 2: 30 p.m. Thank you.

The House rose at 3:26 p.m.