

REPUBLIC OF KENYA
BOMET COUNTY ASSEMBLY
SECOND ASSEMBLY – (FIRST SESSION)
VOTES AND PROCEEDINGS
TUESDAY 3RD OCTOBER, 2017 AT 9.00 A.M

1. The County Assembly assembled at eighteen minutes past nine O'clock.
2. The proceedings were opened with prayer.

3. **Members Present**

- 1) Hon. David Shadrack Rotich-Speaker
- 2) Hon. Chepkwony Joseah
- 3) Hon. Maritim Andrew
- 4) Hon. Korir Philip
- 5) Hon. Bore Winnie
- 6) Hon. Koech Ambrose
- 7) Hon. Maritim David
- 8) Hon. Bett Wesley
- 9) Hon. Kilel Zadock
- 10) Hon. Langat Alfred
- 11) Hon. Langat Robert
- 12) Hon. Chepkorir Hellen
- 13) Hon. Langat C. Jane
- 14) Hon. Ngeny Leonard
- 15) Hon. Koske Augustine
- 16) Hon. Chirchir Richard
- 17) Hon. Barchok Kipngetich
- 18) Hon. Chemutai Catherine
- 19) Hon. Chepkirui Marcella
- 20) Hon. Chepkirui Ridha
- 21) Hon. Cherotich Clara
- 22) Hon. Chepkemai Evaline
- 23) Hon. Kirui Josphat
- 24) Hon. Kelong Joseph
- 25) Hon. Keter Samwel
- 26) Hon. Kipkirui Davis
- 27) Hon. Kirui Weldon

- 28) Hon. Langat Charles
- 29) Hon. Mutai Cecilia
- 30) Hon. Mutai Vincent
- 31) Hon. Rono Robert
- 32) Hon. Turgut Janet

Members Absent

- 1) Hon. Kiprotich Wesley
- 2) Hon. Chesangi Alice
- 3) Hon. Kirui Leonard
- 4) Hon. Kirui Haron
- 5) Hon. Serbai Robert

4. COMMUNICATION FROM THE CHAIR

The Hon. Speaker gave the following communication from the Chair,

“Hon. Members, Section 12(7) of the County Governments Act 2012 provides that the County Assembly Service Board is responsible for–

- (a) Providing services and facilities to ensure the efficient and effective functioning of the county assembly;
- (b) Constituting offices in the county assembly service, and appointing and supervising office holders;
- (c) Preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;
- (d) Undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and
- (e) Performing other functions necessary for the well-being of the members and staff of the county assembly.

Hon. Members, Section 47(3) of the County Assembly Services Act states that the Board consists of

- (a) the Speaker of the county assembly, as the chairperson;
- (b) a vice-chairperson elected by the Board from the members appointed under paragraph (c);
- (c) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly; and
- (d) one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs, but are not members of the county assembly.

Hon. Members, Paragraph 5 of the Second Schedule to the County Assembly Services Act provides that the quorum for a meeting of the Board shall be three members.

Hon. Members, as you can see from the composition of the Board mentioned above, the Speaker of the County Assembly is the only person in place. The County Assembly is in the process of recruiting other members of the board as envisaged in Section 47(3) (d) of the County Assembly Services Act

N0.5 of 2017. The Secretary to the Board who is the Clerk of the County Assembly has already invited applications from interested persons and the deadline was 26th of September 2017. Hon. Members, the said members can't be recruited unless the quorum of the Board is attained.

Hon. Members, the issue of proportional nomination by political parties according to the numerical strength is not a new concept in our constitution. A case in point is Article 90 (1) of the Constitution which provides that the Election of Members in Article 98(1) (d) shall be on the basis of proportional representation and by use of party lists meaning that parties are to be allocated slots proportional to the number of seats they had garnered and the members are to be selected from the party lists that each party submitted before election.

The question therefore is how the composition of Bomet County Assembly Service Board is to be correctly calculated as required under section 12(3)(c) for the ascertainment of each party's quota of the two seats reserved for the members of the County Assembly so that the proportional representation seats could be correctly allocated. In my view, an interpretation of this particular proviso in its ordinary meaning means that the basis of proportion applicable is arrived at mathematically where the numerical strength is on the basis of one party representation weighed against the other party's and thereafter apportioned between the two slots reserved for political parties.

The word "proportion" is defined as by the oxford living dictionary as "the *relationship of one thing to another in terms of quantity, size, or number; ratio.*" The current assembly comprises a total of thirty two (32) members elected and nominated under the Jubilee party ticket and four (4) members elected and nominated under the Chama Cha Mashinani (CCM) Party ticket. Statistically, thus, the ratio of Jubilee members to CCM members is 8: 1. Consequently a mathematical sharing of two slots on the ratio of 8:1 would result in Jubilee party being entitled to 1.8 of the 2 while CCM would be entitled to 0.2.

The High Court however in the case of *National Gender & Equality Commission & another v Judicial Service Commission & 2 others [2017] eKLR* in paragraph 33 of its judgment emphasized the need to round off or round down decimals when it comes to human beings.

Hon. Members when you round off the number 1.8 it becomes two and when you round down 0.2 it becomes zero.

Hon. Members, arising from this proportion, the Jubilee Party members will then be required to appoint two members to the County Assembly Service Board. I therefore urge the Jubilee Party members to urgently appoint two members to the County Assembly Service Board as envisaged under section 47(c) of the County Assembly Service Act to enable the Board to deliver its mandate.''

5. NOTICE OF MOTION

The following notice of Motion was given by Hon. Zadock Kilel;

THAT, aware that County transport including County roads is one of the functions devolved under Part 2 of the Fourth Schedule to the Constitution of Kenya 2010; also aware that in the 2017/2018 approved Medium Term Expenditure Framework ,there is an allocation of a total of KES 446,156,244 for construction of roads, construction of bridges and installation of culverts; also aware that there are a number of uncompleted road projects throughout the County; further aware that Mengichik bridge in Singorwet Ward was indicated in the Monitoring and Evaluation Report as being 85% complete yet the social audit report of the same project indicates that the bridge is 20% complete; Deeply concerned that this bridge is vital as it connects Singorwet and Merigi wards and is being utilized by tea farmers and the business Community; this County Assembly urges the County executive committee once constituted to prioritize the completion of this bridge so as to assist the residents of Singorwet and Merigi wards.

6. MOTION (Hon. Alfred Langat)

THAT, aware that one of the functions devolved under Part 2 of the Fourth Schedule to the Constitution of Kenya 2010 is that of County transport including county roads; also aware the County Assembly allocated a total of KES 446,156,244 in the approved 2017/2018 Medium Term Expenditure Framework for construction of roads and bridges; also further aware that a number of roads in Singorwet Ward including but not limited to Cheptuiyet –Kapkoita road, Chepkurbet-Motiret Road, Chepkitach-Kaptembwo Road, Aisaik-Singorwet Road, Salaik-Kitoben Road and Suswondo-Masese Road are in pathetic state; Deeply concerned that the residents have experienced a myriad of challenges in transporting their produce to tea and milk collection centers; this County assembly urges the County executive Committee once constituted to include the construction of the said roads in the County Integrated Development Plan, the 2017/2018 Annual Development Plan and to urgently intervene and construct the said roads

The motion was seconded by Hon. Weldon Kirui

The question was proposed and debate arose.

The following members rose to support the motion;

1. Hon. Josphat Kirui
2. Hon. Ambrose Koech
3. Hon. Leonard Ngeny
4. Hon. Andrew Maritim
5. Hon. Joseah Chepkwony
6. Hon. Wesley Bett
7. Hon. David Maritim
8. Hon. Zadock Kilel
9. Hon. Joseph Kelong
10. Hon. Cecilia Mutai
11. Hon. Robert Rono
12. Hon. Evaline Chepkemai

13. Hon. Charles Langat
14. Hon. Catherine Chemutai

The mover was given right of reply

The question was put and **agreed to.**

7. **ADJOURNMENT OF THE ASSEMBLY**

The County Assembly adjourned to **Tuesday, 3rd October, 2017 at 2.30 pm.**

8. The **County Assembly Rose at 11.50 am.**