



**OFFICIAL HANSARD REPORT**

**COUNTY ASSEMBLY OF BOMET**

**THIRD COUNTY ASSEMBLY**

**ASSEMBLY DEBATES**

**Vol. 2 NO. 112**

## DAILY HANSARD

*The Assembly met at the Main Assembly Chamber,*

*Dr. Joyce Laboso Centre at 2:30 p. m*

Third County Assembly - Third Session

Tuesday Afternoon 13<sup>th</sup> February, 2024

*(The Assembly met at 2:30 p.m. in the*

*County Assembly Mini Chamber at County Assembly Buildings)*

*[Hon. Speaker (Hon. C. Korir) in the Chair]*

### PRAYER

### COMMUNICATION FROM THE CHAIR

**Hon. Speaker (Hon. C. Korir):** Hon. Members, I take this opportunity to welcome you officially after the long recess. There is a lot to be done this year. You have come at the right time. Today is 13<sup>th</sup> February. Tomorrow will be Valentine's Day. Happy Valentine's Day, in advance.

Before we went for recess last year, some questions had been asked. One of the Communications that I will make today is my considered opinion on what was asked by Hon. Rosaline Cheptoo, the Hon. Member representing the Rongena/Manaret ward.

Hon. Members, you may recall that during the Afternoon Sitting of Thursday, the 7<sup>th</sup> of December, 2023, Hon. Rosaline Cheptoo, the Hon. Member representing Rongena/Manaret Ward raised a Statement seeking for the indulgence of the Chair on the composition of the Bomet County Assembly Service Board.

In her Statement, the Hon. Member cited the provisions of Section 12 (3) of the County Governments Act, 2012 which provides 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, the Member's point of concern is on the provisions of section 12 (3) (c) of the County Governments Act, 2012 on the two members who are supposed to be nominated by political parties represented in the County Assembly according to their proportion of members.

Hon. Members, the Hon. Member pointed out the fact that this County Assembly is composed of thirty-one (31) members of the United Democratic Alliance (UDA) Party, three (3) members of

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the Chama Cha Mashinani (CCM) Party and four (4) Independent Members. The Hon. Member further asserted that the members contemplated under section 12(3) (c) of the County Governments Act, 2012 are to be nominated by political parties and it therefore means that the Independent Members are excluded. She further contended therefore that the parties that are supposed to nominate the two members of the County Assembly service board are UDA and CCM parties.

Hon. Members from the member's arithmetic, she asserts that the thirty-four (34) members belonging to both UDA and CCM parties are therefore supposed to nominate the two members according to their proportion of members in the County Assembly.

Hon. Members, the Hon. Member further calculated that the UDA Party is supposed to nominate 1.8 members while CCM is supposed to nominate 0.18 members. The Hon. Member then finally concluded that arising from the calculations above, it, therefore, means that the UDA party is supposed to nominate both members of the board as it were during the second assembly.

Hon. Members this County Assembly is guided by practices, usages, forms, precedents, customs, procedures, and traditions of the Parliament of Kenya and Legislative Assemblies from other jurisdictions as provided for under Standing Order 1 (2) of the County Assembly Standing Order s. Hon. Members, it is noteworthy that this is not a novel issue and the same had arisen during the Second Assembly where the then Speaker Hon. David Shadrack Rotich was called upon to give directions to the County Assembly on the composition of the board. I have perused the precedent set by my predecessor and I must apprise you of the facts that were obtained in that circumstance. Hon. Members, Hon. David Shadrack Rotich was called upon to give direction on how the composition of the then Bomet County Assembly Service Board was to be correctly calculated as required under section 12 (3) (c) of the County Government's Act, 2012 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. The Hon. Speaker in determining the matter stated,

*"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's representation weighed against the other party's and thereafter apportioned between the two slots reserved for political parties."*

The word "proportion" is defined by the Oxford Living Dictionary as "the relationship of one thing to another in terms of quantity, size, or number ratio."

The Speaker further stated,

*"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*

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*was 8:1. Consequently a mathematical sharing of two slots on the ratio of 8:1 would result in the Jubilee party being entitled to 1.8 of the 2 while CCM would be entitled to 0.2.”*

The Hon. Speaker then relied on the High Court decision in the case of the *National Gender & Equality Commission & another V Judicial Service Commission & 2 others [2017] eKLR* where in paragraph 33 of the judgment, the High Court emphasized the need to round off or round down decimals when it comes to human beings. The Speaker then rounded off the number 1.8 to two and rounded down 0.2 to zero. The Hon. Speaker then concluded that arising from that proportion, the Jubilee Party members were then required to appoint the two required members to the County Assembly Service Board.

Hon. Members, it is a fact that there are thirty-one (31) members of the UDA Party and three (3) members of the CCM Party in this County Assembly. It is also clear that a reading of Section 12 (3) (c) of the County Governments Act, 2012 excludes independent members from nominating members to serve on the board in that it refers to political parties. Therefore, in applying the above set precedent to the present scenario, it is clear that the ratio of UDA Party members to CCM Party members is 10:1. Consequently a mathematical sharing of two slots on the ratio of 10:1 would result in the UDA party being entitled to 1.8 of the 2 while CCM would be entitled to 0.18. Hon. Members using the formula set by the High Court in the case of *National Gender & Equality Commission & another V Judicial Service Commission & 2 others [2017] eKLR* where the Court emphasized the need to round off or round down decimals when it comes to human beings, I would then arrive at the conclusion that the UDA Party is supposed to nominate two members to serve in the board while the CCM Party is expected to nominate none. I therefore agree with Hon. Rosaline Cheptoo to that extent. However, Hon. Members, the circumstances that were obtained during the Second Assembly are different from those that are obtained now in the Third Assembly. Hon. Members, before the nomination of members as envisaged under Section 12 (3) (c) of the County Governments Act, 2012 to serve in the County Assembly Service Board, the UDA Party members entered into a working agreement with each independent member of this County Assembly and deposited the agreement in the Speaker’s office.

Hon. Members, it is important to look at the contents and terms of the working agreement that the parties to the agreement entered into. In the working agreement, the parties thereto which are the UDA Party members and each independent member agreed as follows:

- “1. *THAT, whenever they are called upon to vote on any matter before the County Assembly, the parties herein shall vote as one common front;*
2. *THAT, the members of the respective parties shall be nominated to serve in different committees of the County Assembly as if they belong to one party.*

3. *THAT, the parties to this agreement shall participate equally in the nomination of members to serve in the County Assembly Service Board;*

4. *THAT, the parties to this agreement are free to caucus and forge a common front in furtherance of their interests;”*

Hon. Members, the parties to the agreement further agreed that:

*“a) This Working Agreement binds the Parties and the respective individual party members.*

*b) No Party may claim to exercise any authority except as authorized under this Agreement.*

*c) The validity or legality of this Agreement may not be subject to challenge by any Party or their respective individual party members before any organ of the two parties to the agreement.*

#### *AMENDMENT / VARIATION*

*This Agreement may be amended and/or varied in writing through a Deed of Variation and/or a Schedule to this Agreement, provided that such Deed of Variation and/or Schedule is approved and/or signed by all members of the two parties to this agreement.*

#### *DISPUTE RESOLUTION*

*Disputes between Member Parties arising out of the interpretation and/ or application of this Agreement shall be resolved amicably through direct negotiations.”*

Hon. Members, it is clear from the above-cited terms of the working agreement that the parties thereto intended to be bound by the terms of the agreement. The parties consciously entered into the agreement and went ahead and executed the terms of the agreement through the nomination of members to serve in the different committees of this County Assembly and the County Assembly Service Board. Hon. Members, it is also apparent from the agreement that in case parties intend to amend or vary the terms of the agreement, then they would do so in writing through a Deed of Variation and/or a Schedule to the Agreement, provided that such Deed of Variation and/or Schedule is approved and/or signed by all members of the two parties to the agreement.

Hon. Members, as far as I am concerned, the Office of the Speaker has not received any written Deed of variation and/or Schedule to the agreement approved and /or signed by all members of the two parties to the agreement. In the absence of such, the non-partisan office of the Speaker is expected to assume, and rightfully so, that the parties to the agreement haven't had any intentions to vary the terms of the agreement and are therefore bound by the terms as they subsist in the agreement.

I would also expect parties to utilize the dispute resolution mechanism contained in the agreement in case of any misunderstanding between them.

This County Assembly is hereby accordingly guided.

I thank you.

Hon. Members, I can see we have members of the public. It is always good to recognize their presence. Members of the public, I welcome you to this Assembly. You are expected to maintain silence. The members of the public in the public gallery are:-

1. Victor Kipchirchir - African Institute
2. Vivian Chepkirui - Sotik Technical Institute
3. Caroline Cherotich - Sotik Technical Institute
4. Winnie Chebet - Bomet Central Technical Institute
5. Caren Chelangat - Sot Technical Institute
6. Amos Ngetich - Sot Technical Institute
7. Emmanuel Bett - Sot Technical Institute
8. Abigael Cheronno - Belgut Technical Institute

You are welcome.

Hon. Members, I will proceed with the next communication.

*(Hon. R. Cheptoo rose on a point of order)*

**Hon. Speaker (Hon. C. Korir):** I am making my communications. I will give you time to raise your point of order later.

My next communication is on the Statement raised by the Hon. Vincent Mutai. Hon. Members, you may also recall that during the Afternoon Sitting of Thursday, the 7<sup>th</sup> of December, 2023, Hon. Vincent Mutai, the Hon. Member representing the Minority Group in this County Assembly raised a statement seeking the direction of the Speaker on the leadership of the County Public Investment and Accounts Committee as established under Standing Order 198(1) of our County Assembly Standing Order s.

The Hon. Member enumerated the roles of the committee as provided for in Standing Order 198(2) of the County Assembly Standing Order s as being responsible for: -

- (a) The examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- (b) The examination of the reports, accounts, and workings of the county public investments;
- (c) The examination, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments are being managed under the sound financial or business principles and prudent commercial practices.

Hon. Members, the Hon. Member then observed that arising from the roles of the committee as enumerated above, it is evident that the committee is a watchdog committee. He also observed that the committee is supposed to scrutinize the expenditure of public funds and provide a Parliamentary oversight function which is critical in enforcing improved financial accountability,

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combating fraud and corruption and promoting good governance in the public sector. He then further observed that this would increase the confidence of the voters that their tax monies are being used responsibly which, in turn, increases public confidence in the credibility of government institutions.

Hon. Members, the Hon. Member then embarked on a comparative study of practices in other legislative assemblies including the Parliament of Kenya and other County assemblies. In his study, he noted that the National Assembly provided in its Standing Order s that the Chairperson of the Public Accounts Committee is elected from among members of the committee belonging to parties not forming the government. He specifically quoted Standing Order 205 (3) of the National Assembly Standing Order s which provides that ***“The Public Accounts Committee shall consist of a Chairperson elected from among members of the Committee belonging to parties not forming the national government and not more than fourteen other Members.”*** He then further noted that it is from this backdrop that the Chairperson of the National Assembly’s Public Accounts Committee is one Hon. CPA. John Mbadi, a nominated member of the Orange Democratic Movement Party (ODM), a minority party in the current National Assembly.

Hon. Members, the Hon. Vincent Mutai further quoted the provisions of Standing Order 205(4) of the National Assembly Standing Order s which provides that, ***“In the membership of the Public Accounts Committee, parties other than parliamentary parties forming the national government shall have a majority of one.”*** He then observed that this was intended to have the membership of the Committee be as much as possible composed of parliamentary parties not forming the government to provide proper, efficient, and effective oversight free from influence from the ruling government.

Hon. Members, the Hon. Member also referred to the provisions of the Senate Standing Order s which provides in Standing Order 193(3) that in the membership of the County Public Accounts Committee, the party or parties not forming government shall have a majority of one. He then observed that it is from this background that the Chairperson of the Senate’s Public Accounts Committee is one Senator Kajwang Moses Otieno a member of the ODM Party.

Hon. Members, in his further comparative study of practices in other county assemblies notably Nairobi and Narok County assemblies, the Hon. Member found out that in Nairobi County Assembly, the Chairperson of the Public Investment and Accounts Committee is one Hon. Mwaura Chege a Member of United Democratic Alliance (UDA) Party which is a Minority Party in Nairobi County Assembly while in Narok County Assembly, the Chairperson of the Committee is one Hon. Kutingala a member of Jubilee Party which is a minority party in Narok County Assembly.

Hon. Members, I do agree with the Hon. Member that this County Assembly is guided by practices, usages, forms, precedents, customs, procedures, and traditions of the Parliament of Kenya and

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legislative assemblies from other jurisdictions as provided for under Standing Order 1(2) of the County Assembly Standing Order s. I also take note that the Speaker has been empowered under Standing Order 1(1) of the County Assembly Standing Order s to decide on procedural questions that are not expressly provided for in the Standing Order s.

Hon. Members before I apply my mind to the question that I have been invited to give direction on, let me take you back to the statutory provision that establishes the County assembly committees and their rules of procedure. Section 14(1) of the County Governments Act, 2012 provides “*A county assembly—*

- (a) may make Standing Order s consistent with the Constitution and this Act regulating the procedure of the county assembly including, in particular, orders for the proper conduct of proceedings; and*
- (b) Subject to Standing Order s made under paragraph (a), may establish committees in such manner and for such general or special purposes as it considers fit, and regulate the procedure of any committee so established.*

Hon. Members, committees are extensions of the County assembly and they transact business on behalf of the County assembly. The committees of this county assembly including the composition and terms of tenure are expressly provided for in Part XXI of the Standing Order s and Section 15 of the County Assemblies Powers and Privileges Act No. 6 of 2017 which establishes the Committee of Powers and Privileges.

Hon. Members in order to effectively give direction on the matter that I have been invited to provide guidance on, there are two issues that must be considered:

- (1) Whether the Speaker has powers to interfere with the composition and leadership of committees which are expressly provided for in the Standing Order s.
- (2) Whether committee leadership and composition is a procedural or substantive issue.

In considering the first question whether the Speaker has powers to interfere with the composition of committees which are expressly provided for in the Standing Order s, it is important to know the process through which these committees are established. Standing Order 166(1) provides, “***Unless otherwise provided by any written law or these Standing Order s, the Committee on Selection shall, in consultation with County Assembly parties, nominate Members who shall serve on a select Committee.***” It is therefore imperative that the county assembly committees are established pursuant to a written law and the county assembly Standing Order s as adopted and



approved by the county assembly. It is also a preserve of the County assembly parties to nominate members who serve in different select committees.

As for the leadership of the county Assembly committees, Standing Order 171(1) of the County Assembly Standing Order s provides, “*Subject to paragraph (2) of Standing Order 166 (Nomination of Members of Select Committees), unless otherwise provided under any written law, these Standing Order s or by resolution of the County Assembly-*

*(a) a select Committee shall, upon appointment, elect its chairperson and vice-chairperson from amongst its members;*

It is evident from the aforementioned Standing Order 171(1)(a) that the Leadership of a County Assembly Committee unless otherwise expressly provided for or by a resolution of the County Assembly is left to be decided by the members of the committee. The role of the Speaker in this context is therefore to ensure that the spirit and letter of the law and Standing Order s are kept.

In considering the second question of whether committee leadership and composition is a procedural or substantive issue, it is important to note that the Speaker’s power under Standing Order 1(1) is only limited to procedural questions that are not expressly provided for in the Standing Order s. Hon. Members, the question of committee composition and leadership is not a procedural issue; it is a substantive issue. It is therefore my considered opinion that the Speaker’s hands on this matter are tied. However, as the Speaker, I’m expected to give guidance and direction on issues brought forth by the members. Hon. Members from the comparative study and examples given by Hon. Vincent Mutai on practices of Parliament and other legislative assemblies, it is apparent from the examples given specifically that of Parliament of Kenya that the composition and leadership of the PIC/PAC committee is expressly provided for in their respective Standing Order s. I have not had the privilege of studying the Standing Order s of Nairobi and Narok County assemblies but from the practice in the Senate and the National Assembly, it is clear that the said legislative assemblies provided for the composition of their PAC/PIC committees in their respective Standing Order s.

Hon. Members, it is therefore my direction that if the members of this county assembly are desirous of changing the composition and leadership of the PAC/PIC committee, then it is within their mandate to amend the Standing Order s in the manner provided for and effect the changes as they so wish. It is also important to note that using Standing Order 186 of the County Assembly

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Standing Order s, the current membership of the PAC/PIC can still effect changes in the leadership of the committee without necessarily amending the Standing Order s.

This county assembly is hereby accordingly guided.

I thank you.

Honorable members the minority whip in this county assembly raised a statement seeking the direction of the speaker on the leadership of the county public investment and accounts committee as established under Standing Order 198 (1) of the county assembly Standing Order s. The honorable member enumerated the roles of the committee as provided for in Standing Order 198 (2) of the county assembly Standing Order s as being responsible for:

- a) The examination of the accounts using the appropriation of the sum voted by the county assembly to meet the public expenditure and of such other accounts laid before the county assembly as the committee may think fit.
- b) Examination of the reports, accounts and workings of the county public investments.
- c) Examination in the context of the autonomy and efficiency of the county public investments, whether the affairs of the county public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

Honorable members, the honorable member the honorable member then observed that arising from the roles of the committee as enumerated above, it is evident that the committee is a watchdog committee. He also observed that the committee is supposed to scrutinize the expenditure of public funds and provide parliamentary oversight function which is critical in enforcing improved financial accountability, combating fraud and corruption and promoting good governance in the public sector. He then further observed that this would increase confidence of the voters that their tax monies are being used responsibly which in turn increases public confidence in the credibility of government institutions

Honorable members, the honorable member then embarked on the comprehensive study of practices in other legislative assemblies including (*Members walked into the plenary*) the parliament of Kenya and other county assemblies. In his study, he noted that the national assembly provided in its Standing Order s that the chairperson of the Public accounts committee is elected from among members of the committee belonging to parties not forming the government. He specifically quoted Standing Order 205 (3) of the national assembly Standing Order s which provides; ‘that the public accounts committee shall consist of a chair person elected from among members of the committee belonging to parties not forming the national government and not more than 14 other members. He then further noted that it is from this backlog that the chairperson of the national assembly’s committee is one honorable CPA John Mbadi, a nominated member of the Orange Democratic Movement, a minority party in the current national assembly. Honorable

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Vincent Mutai quoted the provisions of Standing Order 205 (1) of the national assembly Standing Order s which provides that in the membership of the public accounts committee, parties other than parliamentary parties forming the national government shall have a majority of one, he then observed that this was intended to have the membership of the committee to be as much as possible composed of the parliamentary parties not forming the government so as to provide proper, efficient and effective oversight free from influence from the ruling government.

Honorable members, the honorable member also referred the provision of senate Standing Order s as provided in Standing Order 193 (3) that in the membership of the public accounts committee, the party or parties not forming government shall have a majority of one. He then observed that it is from this background that the chairperson of the senate's public accounts committee is one senator Kajwang Moses Otieno, a member of the ODM Party.

Honorable members, it is in this further comparative study of practices in other county assemblies notably Nairobi and Narok County Assemblies, the honorable member found out that in Nairobi County Assembly, the Chairperson of the Public investment accounts committee ifs one Hon. Mwaura Chege, a member of United Democratic Alliance Party which is a minority party in Nairobi County Assembly while in Narok County Assembly, the chairperson of the committee is one honorable Kutingala, a member of the jubilee party which s a minority Party in Narok county assembly. Honorable members I do agree with the honorable member that this county assembly is guided by practices, usages, home precedence, customs, procedures and traditional developments, and legislative assemblies from other jurisdictions as provided for under Standing Order 12 of the county assembly Standing Order s. I also take note that the speaker has been empowered under Standing Order 11 of the County assembly Standing Order s to decide upon procedural questions that are not expressly provided for in the Standing Order s.

Honorable members, before I apply my mind in the question that I have been invited to give direction on, I wish to take you back to the statutory provision that establishes the county assembly committees and their rules of procedure. Section 14 (1) of the county government's act 2012 provides that a county assembly may make Standing Order s consistent with the constitution and may start regulating procedures of the county assembly including in particular orders from the proper conduct of proceedings and (ii), subject to Standing Order s made under paragraph (a) may establish committees in such manner and for such general or special purposes as it considers it and regulate the procedures of any committees so established. Honorable members, committees are extensions of the county assembly and they transact the business on behalf of the county assembly. Committees of this county assembly including the composition of the term or tenure are expressly provided for in part (21) of the Standing Order s and section 15 of the county assembly's powers and privileges act 06/2017 which establishes the committee of powers and privileges. Honorable

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members, in order to effectively give directions on the matter that I have been invited to provide guidance on, there are at least two issues that must be considered:

- i) Whether the speaker has powers to interfere with the composition and leadership of committees which are expressly provided for in the Standing Order s.
- ii) Whether committee leadership and composition is a procedural or substantive issue.

In considering the first question whether the speaker has powers to interfere with the composition and leadership of committees which are expressly provided for in the Standing Order s, it is important to know the process through which these committees are established. Standing Order 166 (1) provides that unless otherwise provided by any other written law or this Standing Order s, the committee on selection shall in consultation with county assembly parties nominate members who shall serve on a select committee. It is therefore imperative that the county assembly's committees are established pursuant to a written law and the county assembly's Standing Order s as adopted and approved by the county assembly, it is also a preserve of the county assembly parties to nominate members who serve in different select committees. As for the leadership of the county assembly committees, Standing Order number 171 (1) of the county assembly Standing Order s provides that, subject to paragraph two of the Standing Order 156 on nomination of members of select committees, unless otherwise provided under any written law, these Standing Order s or by resolution of the county assembly, a select committee shall upon appointment elect its chairperson and vice chairperson from amongst its members. It is evident from the aforementioned Standing Order 171 (1) (a) that the leadership of the county assembly committee unless otherwise expressly provided for or by resolution of the county assembly, is left to be decided by the members of the committee. The role of the speaker in this context is therefore to ensure that the spirit and labour of the law and Standing Order s are kept.

In considering the second question whether committee leadership and composition is a procedural or substantive issue, it is important to note that the speaker's power under Standing Order 11, is only limited to procedural questions that are expressly provided for in Standing Orders. Honorable members, the question of committee composition and leadership is not a procedural issue. It is a substantive issue. It is therefore my considered opinion that the speaker's hands on this matter are tied. However, as the speaker, I am expected to give guidance and direction on issues brought forward by the members. Honorable members, from the comparative study and examples given by honorable Vincent Mutai on parliament and other legislative assemblies, it is apparent from the examples given that the composition and leadership of PAC/PIC committee expressly provided for in their respective Standing Order s. I have not had the privilege of studying the Standing Order s of Nairobi and Narok county assemblies but from the arties represented in the national assembly, it is clear that the said legislative assemblies clearly provided for the composition of their PAC/PIC

committees in their respective Standing Order s. Honorable members it is therefore my direction that if the members of this county assembly are desirers of changing the composition of leadership of the PAC/PIC committee then it is within their mandate to amend the Standing Order s in the manner provided for and effect the changes as they so wish. It is important to note that using Standing Order 186 of county assembly Standing Order s, the current membership of the PAC/PIC can still effect changes in the leadership of the committee without necessarily amending the Standing Order s.

Up to that point honorable members, this county assembly is hereby guided accordingly. Thank you very much. I believe honorable Mutai you have had your answer. Last but not least members, I still have one communication to make. It is a plea from honorable member representing Chemagel ward honorable Dennis Busienei is saying that tomorrow there will be official handing over ceremony by M-Pesa foundation; they will be handing over computers to Kaplong VTC. Tomorrow 14<sup>th</sup> from 10 am. All members are welcome. More so the education committee you must be there. Now there was a question you had honorable member?

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** Thank you Hon. Speaker. Following your ruling, I have some few questions I would like to ask you. As you have said that there was an agreement which was made by the two parties, I want to know whether independent is a party or not.

**Hon. Speaker (Hon. C. Korir):** Kindly repeat.

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** you said that there was an agreement which was made between two parties of which we have UDA and independent. Is independent a party or not. Another question I want to be given the agreement and the minutes and the day...

**Hon. Speaker (Hon. C. Korir):** You are saying agreement between the independent honorable member?

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** You said it was agreed by independent and UDA that the chance be given to independent that is why I also want to know whether independent is a party. Another question is that I want to be given the agreement and the minutes and the date which the agreement was made. the last one I also want to know who signed on behalf of the independent because the UDA has the umbrella and has the officials from the county. Who are the officials of independent in the county government of Bomet

*(murmurs)*

**Hon. Speaker (Hon. C. Korir):** Order honorable members. Thank you very much honorable

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** I have heard your concerns. I think one of the questions is whether independent members are parties and two was the document that was used.

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** and the last one, who signed on behalf of the independent?

*(Hon. C Langat rose on a point of order)*

**Hon. C. Langat (Boito Ward, UDA):** ifs it right for the honorable member to address you while sitting Hon. Speaker.

**Hon. Speaker (Hon. C. Korir):** She was out of order. You are clearly out of order.

*(Hon. R. Ruttoh rose on a point of order)*

**Hon. R. Ruttoh, Majority Whip (Chemaner Ward, UDA):** Mr. Speaker is it in order for this honorable house to challenge the ruling of the speaker? I need your clarification Mr. Speaker so that next time I will also do the same if it is necessary.

**Hon. Speaker (Hon. C. Korir):** Thank you very much in the first question whether the honorable member was in order to address the speaker while sitting, I will say you are out of order but next time, kindly learn to address the chair while standing.

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** Obliged.

**Hon. Speaker (Hon. C. Korir):** Thank you. Honorable Richard, you have asked whether the honorable member have challenged the decision of the chair. I think the honorable member is seeking more clarification on how the decision was reached and the agreement which was done which in normal circumstances, actually it is not allowed for any member to challenge the chair however in this position, I think it is more clarification. Are you challenging the chair or you are seeking more clarification?

**Hon. R. Cheptoo (Rongena/Manaret Ward, UDA):** Thank you Hon. Speaker I am not challenging you I just want more clarification on the same.

**Hon. Speaker (Hon. C. Korir):** Thank you very much I shall revert back to you in due course.

*(Hon. W. Kiprotich rose on a point of order)*

**Hon. W. Kiprotich (Chepchabas Ward, UDA):** Mr. Speaker right from what the majority whip is saying, preferably we had a speaker's Kamukunji this morning which is always informal but its considerations can be taken further. You indicated to us that some amendments of some acts of the Standing Order s are on course and I think the issues that were raised by these honorable members were actually weighty and we welcome your ruling as part and parcel of this assembly but that particular aspect that honorable Richard Ruttoh the majority whip is saying and what honorable Cheptoo is trying to get some clarifications be it in form of criticizing, accepting, be it in form of disregarding or whatever means that is present, I think there is need to amend that Standing Order also and I know of course this one is going to be conflict of interest because it is you who is supposed to chair the amendment of the Standing Order s and just like every other

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member here, there are so many questions now running in all these honorable members' minds about the ruling that you have just given and you know the Standing Order 96 (5) expressly indicates that there is no challenge of the speaker's ruling. My appeal to you in the world of democracy, despite the fact that you are the speaker, you are supposed to chair and it is your ruling that we are talking about is to put the interest aside so that when we are considering this particular amendment, also consider that one that we can be able to challenge the speaker's ruling, we can be able to criticize we can be able to put some more flesh in whatever you have said. Thank you. I think there is a wrong misunderstanding, at no point and there shall nobody, it shall never come to be that the speaker's or the chair's decisions are challenged. However, it is the right of every member to seek clarification as to how the decision was arrived at but not challenging the decision of the chair. Let us make that very clearly, I believe honourable Rosaline has asked a question seeking clarification and I've asked her a question whether she is challenging the chair's decision and she has rightly said no, she wants more clarification on that so I don't know, honourable Rosaline what you are clarifying is so you can challenge the chair's decision or what was the spirit of that?

**Hon. R. Cheptoo (Rongena/ Manaret ward, UDA):** Maybe I can put it in written so that it can be seen as a question for clarification.

**Hon. Speaker (Hon. C. Korir):** So kindly proceed now then you put it as a question but not challenging the chair's decision, if I find it challenging...

**Hon. R. Ruttoh, Majority whip (Chemamer ward, UDA):** In my own opinion Mr. Speaker is that once the chair has been asked to table the minutes and the signatories of the minutes it means what you were ruling was not the right thing so we need more evidence so that we can accept that your ruling was satisfactory to all the members. that is as per my understanding and when you go that direction Hon. Speaker I will also go back to request because you have said you have seen or you have gone through the national assembly Standing Order s and some of the things that were raised by honourable Vincent comply with the national assembly Standing Order s which means we are also saying we also need to see if it is through, thank you Mr. Speaker.

*(Hon. E. Kirui rose on a point of order)*

**Hon. Speaker (Hon. C. Korir):** What is your point of order honourable Eric?

**Hon. E. Kirui (Kimulot ward, UDA):** Thank you for this opportunity and it is good to be back to the house this afternoon after the long recess. I listened to honourable Richard Ruttoh and it puts clearly the definition of privileges in play. Hon. Speaker I would like to request for your indulgence to defend the honourable member from Rongena/Manaret ward from the statement being made by honourable Richard Ruttoh because he wants to influence you honourable chair you've been magnanimous enough to extend of wanting to give consideration to the request by honourable

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from Rongena/Manaret ward however honourable Richard Ruttoh seems to want to influence your decision on allowing the honourable member to be given an opportunity to just for further clarification. I would like to request you Hon. Speaker to defend her so that honourable Richard Ruttoh does not prejudice you from further extending your magnanimity in this matter, thank you Hon. Speaker.

**Hon. Speaker (Hon. C. Korir):** Thank you honourable member. So let me first answer your question, I think honourable Richard Ruttoh what you've just given in terms of seeking of the minutes, all these are records for your use. My directions are to be shared with you all and all the sightings that have been given, clerk kindly note this provide for the members to have a look at it themselves. This house is a house of rules and proceedings, everything that I give is considered opinion and I give guidance in non-partisan way, I am apolitical at this stage, whenever I am sitting on this chair I give directions as per the rule of law as per what I sworn upon when in was swearing to the speaker of this county. So at no point will I use it to mislead this house none whatsoever so in terms of the order whether the honourable member is trying to kind of influence me I think I had given my way by saying that. Actually I know honourable independent members and I agreed with all of them, honourable J.K did you sign?

**Hon. J. Kipkirui (Singorwet ward, INDEPENDENT):** I did sign Hon. Speaker.

**Hon. Speaker (Hon. C. Korir):** Who is the other independent member? Honourable Langat?

**Hon. P. Langat (Merigi ward, INDEPENDENT):** I signed.

**Hon. Speaker (Hon. C. Korir):** You signed also, you signed that you will be taking place at the county assembly, you will abide by it and that you will be selected to any committee. Any other? And when they signed they signed with UDA party I think what is very clear is that all of them signed, what is so important because this is a house of procedures I will share with the honourable member the deal that they signed. Again, I gave my ruling that if there is to be any change in that there has to be a deed of variation so honourable member if you can mobilize all the honourable members to sign that variation, I the speaker I have no issue at all otherwise as it is it is as good as saying the status the status quo remains the way it is unless otherwise you change that variation that you signed, I was not there myself I am not the one who signed it, I think the independent members decided to sign on their own so it is a matter that is not me but party.

**Hon. D. Busienei (Chemagel ward, UDA):** Mr. Speaker I am almost becoming confused to what you have said. I think we need to seek for clarification especially from dictionary. I thought independent should mean single-handed or singular and party here in this case UDA and CCM they are in plural so I don't know how can Independent be described as party and how they signed. In fact, I am getting this information today, I am surprised that some individuals had signed with



the party yet they are not related in any way, each one has his flock so Mr. Speaker we need further clarification.

*(Hon. P. Langat rose on a point of order)*

**Hon. P. Langat (Merigi ward, Independent):** You know we are the first born, four of us from Bomet County, we have never heard of Independent and now we are just but guessing.

*(Laughter)*

You know what the president said in Kapkatet that we have no number plates but the people of my ward saw that we have got number plates that is why we came by bigger margins. We defeated some of those nominated in UDA, we left them at home that is why we are here because of the majority of my people, thank you.

*(Hon. C. Langat rose on a point of order)*

**Hon. C. Langat (Boito ward, UDA):** Thank you very much Hon. Speaker, so that the members should not be interpreted to mean that the ruling of the chair cannot be challenged or rather in this case be disputed is because the chair you are using but there is a way you can challenge the speaker's ruling because where the constitution in case a speaker does not mean well in case a speaker contravenes where there is a conflict the constitution and Standing Order s, the constitution supersedes the other one honourable Speaker. So in case a member would want to challenge the ruling of the speaker is that they should go back and raise where there is contradiction of the constitution. Thank you Hon. Speaker for sticking to rules and procedures of the house and the members who have just asked a very weighty matter and I know for sure they were not asking in bad faith, they were asking to know and getting information on the direction as far as the constitution and the Standing Order s is concerned.

**Hon. Speaker (Hon. C. Korir):** Thank you very much, I think it was a point of information and not a point of order. I don't know whether honourable Dennis heard what I was reading. I said I therefore agree with honourable Rosaline to that extent in what she had given however honourable members the circumstances I obtained during the second assembly are different from those that are obtained now in the third assembly. Honourable members prior to nomination of members envisaged under section 12(3)(c) of the county government act ,2012 to serve in the county assembly service board the UDA party members entered into a working agreement with each independent member of this county assembly.

So UDA, the members who were independently elected came in and signed an agreement with the party to work harmoniously with the party, that is the agreement and not anything else so it is important to look at the contents and I've read, honourable Dennis you're not listening, I might decide to throw you out if you are not listening to the chair. One of the things that was listed honourable Dennis is whenever they are called to vote on any matter before the county assembly

the parties herein shall vote as one common front. Now that is independent member with UDA, they will be voting on the same line. It will be considered that UDA has actually... if it was CCM agreeing with Independent candidates it could have been okay still but they chose to work with UDA on these matters, so they agreed on four fronts; to vote as one with UDA party. That the members of the respective parties shall be nominated to serve in different committees of the county assembly as if they belong to one party. That the parties to this agreement shall participate equally in the nomination of members to serve in the County Assembly Service Board.

It is something that was signed, not me, not the chair, the visa vi the party. Are you the party?

**Hon. D. Busienei (Chemagel ward, UDA):** I am a member of the party.

**Hon. Speaker (Hon. C. Korir):** Did you sign to be a member of the party?

**Hon. D. Busienei (Chemagel ward, UDA):** I represent the party.

**Hon. Speaker (Hon. C. Korir):** And you were nominated to vie in the position as a member?

**Hon. D. Busienei (Chemagel ward, UDA):** Sure.

**Hon. Speaker (Hon. C. Korir):** It is also equal that some members can sign after being elected to work with the party. Is it a mistake if they work like that?

**Hon. Members:** No.

**Hon. D. Busienei (Chemagel ward, UDA):** Mr. Speaker the only thing is that I don't know who the witnesses were.

*(Laughter)*

Because I have been here in almost all sittings I have never missed and I don't know when wa the day that they signed, that is why I said I am confused a bit but I don't challenge your ruling.

**Hon. Speaker (Hon. C. Korir):** Thank you, I think so that we can clear that we will get the working agreement that was given so that as members you can decide what you want to do after that.

**Hon. P. Mutai (Sigor ward, UDA):** Mr. Speaker I still wish to seek some clarification on the said though you have made your ruling on the issue of independent members based it means that when the party, UDA will be having their own party issues the independent members will be also part and parcel even if it means they will be conducting some of the elections in the party, based on your ruling, thank you.

**Hon. Speaker (Hon. C. Korir):** Not based on my ruling, I think you are getting your own ruling, the one I have read the agreement they made with the party that whenever they are called upon to vote on any matter before the county assembly, the parties herein shall vote as one common front that does not mean they have to enter to any meetings of UDA. Two that the members the members of the respective parties shall be nominated to serve in different committees of the county assembly as if they belong to one party. That was the agreement but if you are as members of UDA you can

sign to have honourable so and so to be the chair and you have voted for that honourable member within the premises of the assembly. That the parties to this agreement shall participate equally in the nomination of members. I think probably in will with your that agreement so that you can have a look at it.

In the interest of time we move ahead.

### **PAPERS**

**Hon. P. Kirui, Leader of Majority (Ndanai/Abosi ward, UDA):** Hon. Speaker I beg to lay the following papers on the table of the county assembly today Tuesday 13<sup>th</sup> of February 2024.

1. Consolidated reports and financial statement.
2. Model Intergovernmental Conditional Allocations Transfer Agreements.
3. Submission of nominees for the recruitment and selection panel for members of the county public service board.

I beg to lay.

**Hon. Speaker (Hon. C. Korir):** Proceed to lay honourable member.

Thank you very much honourable majority leader for the papers that you've laid.

For the Consolidated reports and financial statement, I commit to the following sectorial committees;

1. Finance and economic planning.
2. Health and sanitation.
3. Lands, urban planning and housing.
4. Trade, tourism and co-operatives
5. Labour and public service.
6. Roads, transport and public works.
7. Energy, environment, water and natural resources.
8. Administration, legal affairs and citizen engagement.
9. Gender, culture and social services.
10. Education, youth and sports.

In the second paper that you have laid honourable majority leader on the Model Intergovernmental Conditional Allocations Transfer Agreements I commit to the committee on finance and economic planning. Three submissions of nominees for the for the recruitment and selection panel for members of the county public service board it is committed to committee on appointments. Thank you very much.

**Hon. B. Langat (Kembu ward, UDA):** Before order number six Mr. Speaker, I have a paper to lay.

**Hon. Speaker (Hon. C. Korir):** You have a paper you may proceed.

**Hon. B. Langat (Kembu Ward UDA)** Thank you honourable speaker for giving me this opportunity and I would like to thank Honorable Members for having come this session after a long recess, let me say happy new year to everyone and also before I lay down this paper I wish to give out my condolences to one of our prominent person in my ward area director Rose Koech, the lady was a woman leader, she comes from AGC Kenya and on behalf of people of Kembu Ward I want to say, the lady was so passionate about humanity, I say sorry to the family and the people of AGC Kenya entirely. So the paper on my side is the report of committee of trade industries and cooperatives on the vetting of Chief Officer nominee for department of cooperatives that is Mr. Benard Koros Kiplangat, I beg to lay.

**Hon. Speaker (Hon. C. Korir):** Proceed to lay.

**Hon B. Langat (Kembu Ward UDA)** Thank you.

**Hon Speaker (Hon. C. Korir):** Remember honourable member next time before you lay a paper you pass it to the chairs for permission to lay.

### NOTICES OF MOTIONS

**Hon. P. Kirui, Leader of Majority (Ndanai/Abosi ward, UDA):** Hon speaker I would like give notice of the following motion that pursuant to Standing Order 164 (1) of the County Assembly Standing Order s, this County Assembly approves the appointment of the following members to the county assembly business and rules committee;

1. Cosmas Korir, Speaker
2. Honourable Leonard Rotich, the Deputy Speaker
3. Honourable Paul Kirui, Leader of Majority
4. Honourable Kibet Ngetich, Leader of Minority.
5. Honourable Richard Ruttoh, Majority Whip.
6. Honourable Dennis Kiplangat, Minority Whip.
7. Honourable Lilly Cherotich, Member.
8. Honourable Catherine Chepngetich, Member.
9. Honourable Anne Chepkemoi, Member.
10. Hon Evaline Sang, Member.
11. Hon Charles Langat, Member.

I beg to give notice.

**Hon Speaker (Hon. C. Korir):** Proceed. Thank you very much, I think that was the House Business Committee, so the order paper of tomorrow morning the members will approve that list.

### QUESTIONS AND STATEMENTS

**Hon. V. Rop, Deputy Majority Whip (Nominated MCA, UDA)** Thank you Mr. Speaker, I rise to seek a comprehensive statement from the Chairperson of the committee on Environment Water

and natural resources concerning the water drilling machine that was procured by the county government of Bomet, in the statement the chairperson should indicate the whereabouts of the drilling machine, the supplier of the machine, the contract price of the machine, the financial year during which the machine was procured and lastly Mr. Speaker, the amount that has been already paid to the supplier, I beg to lay.

**Hon. Speaker (Hon. C. Korir):** Proceed. Thank you, I think the question that has been raised by honourable Victor Rop be directed to the Chair Energy Environment, Water, and Natural Resources. Honourable member you have 30 days to look into that.

**Hon. R. Cheptoo (Rongena/Manaret ward, UDA):** Obligated.

**Hon. Speaker (Hon. C. Korir):** Thank you, the earlier the better. Any other issue?

### **ADJOURNMENT**

**Hon. Speaker (Hon. C. Korir):** Honourable Members we are back for this session but tomorrow being Valentine's Day I expect all of you to be there tomorrow in the morning session and in the afternoon session, the Valentine will start after the afternoon session in the afternoon. Ensure that all of are here, we share love among each other and later you will share in your wards. This assembly adjourned up to tomorrow 9:30 am.

The assembly rose at 4:00p.m