



REPUBLIC OF KENYA
NYANDARUA COUNTY ASSEMBLY
1ST ASSEMBLY-4th SESSION
OFFICIAL REPORT



(The Hansard)

Tuesday 15th March, 2016

The Assembly met at the Assembly Chambers at 2:30 P.M

The Speaker, Hon. Ndegwa Wahome, in the Chair

Prayer

QUORUM CALL AT THE COMMENCEMENT OF THE SITTING

The clerk-at-the-table confirms that there is no quorum

Speaker: There being no quorum, I invoke the provisions of standing order No. 34 and direct that the division bell be rung for an initial 10 minutes or until such a time within the 10 minutes that the quorum will have been achieved.

The bell is rung for 4 minutes and quorum is achieved as confirmed by the clerk-at-the-table
Quorum having been achieved let us proceed with the business for this afternoon session.
First order!

Majority Whip, Hon. Kinyanjui Gachari, rises

Yes Majority Whip and Member for Shamata Hon. Kinyanjui Gachari.

Hon. Kinyanjui Gachari: Thank you Mr Speaker, I rise on Standing Order number 18. This regards the case that was in Nakuru High Court. We have a Court Order from the Nakuru High Court depicting a suit where James Mwangi Gichuki and Peter Githinji Ngumba are the first and second applicants respectively. Nyandarua County Assembly was the respondent. John Kinyanjui Gachari, Sammy Douglas Kamau, Peter Wahome Kamoche, Kariuki Muchiri, Samuel Kimani Njiraini, John Kieru Wambui and Michael Njoroge Kirumba are listed in the case as the first, second, third, fourth, fifth, sixth and seventh interested parties respectively.

In essence, the order asserts that the stay order sought has forthwith been declined. The order continues to say that the applicants shall meet the cost of the application.

Therefore, Mr Speaker, I want to give you a copy of this order so that appropriate action can be taken.

Speaker: Very well, please table it with the clerk-at-the-table.

Hon. Kinyanjui Gachari: Thank you Mr Speaker, I have now tabled the document in this House.

Speaker: The Court Order is therefore duly tabled and will be marked appropriately. Hon. Members, I wish to confirm that this Court Order was served to the Office of the Clerk yesterday, Monday the 14th day of March. As you are all aware, we were held up in a meeting the entire day and therefore, I saw the order today in the morning. Over and above that, I have also received a communication from Democratic Party's (DP) headquarters raising some issues.

I was doing the communication on both issues, that is, the issue raised by DP and its place in the law especially in the parliamentary practice as well as the issue on decisions and the proceedings carried out by The National Alliance (TNA) as a party. In fact, I could not finish the communication because I found an anomaly that I had not seen beforehand. The minutes that supported the removal of the Leader of Majority and election of a new leader in that capacity were not signed. I therefore stopped the communication at that point. From that, I suppose that the Majority Whip will be in a position to put his house in order and subsequently, I will be able to make a communication interrogating all the issues at hand and making determinations on the same tomorrow at 2.30 pm.

The main reason being that in the morning, I will be engaged in a Court of Appeal matter at Nakuru where I have some interest and I may not be available in the morning session. Hence, from this Court Order and some presentations that were made to me by the Majority and Minority Whips, I will make a determination on this matter and all the issues at hand and the way forward tomorrow at 2.30 p.m.

Hon. Michael Kirumba rises

Yes Member for Kipipiri, Hon. Michael Njoroge Kirumba.

Hon. Michael Kirumba: Thank you very much Mr. Speaker. You have explicitly said that the order was served yesterday, the 14th day of March, 2016 yet the copies of the order that we have indicate that they were served on 11th March 2016. So for the record, it is only important that we clear this discrepancy.

Speaker: Very well Member for Kipipiri. I can actually confirm that the copy that was tabled by the Majority Whip from the Office of the Clerk is actually dated 11th of March 2016. However, the copy I have seen today in my office was received yesterday 14th March

2016. It is therefore upon the Majority Whip to know how to approach the issue because the communication from the chair is not yet complete as it is and the Speaker would not be able to act on it when it is not authentic.

Hon. Kieru Wambui rises on a point of clarification.

What is it Member for Gatimu?

Hon. Kieru Wambui: Thank you Mr. Speaker. I would wish to seek your clarification on a statement you have made. I don't know whether the Majority Whip has really understood because it has completely eluded me. Is an interested party in the suit the same as the same as an interested Member of this House? Thank you.

Speaker: I didn't get you Hon. Member. What issue did I mention that you need clarification on?

Hon. Kieru Wambui: Well, you said that some things need to be put in order by the Majority Whip and we do not understand. May be you left them in the Office and...

Speaker: No! No! I have come with them.

Hon. Kieru Wambui: Thank you Mr. Speaker.

Speaker: Actually, what I am saying is that I needed to make a communication on the petition presented to me on the removal of the Leader of Minority by the Minority Whip in that, there is a letter from DP raising some issues, which need to be addressed. Regardless of the way forward we shall forge, we will have to address them.

I had addressed the issue with the Minority Whip and we were in a kind of concurrence but he has brought up some new and very weighty legal issues. Again, I looked at the Standing Orders and found out that he was raising some issues that need to be addressed.

Secondly, when I was addressing the issue of the petition by TNA on the removal of the Leader of Majority and election of new Leader of Majority, I found out that the communication brought to me was incomplete. Therefore, we would not work on it since the minutes purportedly conducting the elections were not signed. I cannot act on it and I decided that instead of dealing with procedural issues, I would allow some room for exploring whether there are ways to put things in the right perspective. Thereafter, we would be in a better position to communicate effectively.

I would have moved with whatever I have in the record to make my communication. However, if additional materials came up, I would also consider them when making the communication.

Majority Whip, Hon. Kinyanjui Gachari rises

Yes Majority Whip and Member for Shamata Hon. Kinyanjui Gachari.

Hon. Kinyanjui Gachari: When I was communicating to you, I remember very well that I had signed the minutes at the beginning. Actually, if I can remember well, when we were going to the Court for the second time, I had also signed them. I have it in my records and can actually come with a copy of the minutes tomorrow...

Speaker: Member for Shamata, let us not make this a point of argument. I had the discretion, as the Speaker, to act on what you brought before me but I have decided to bring it to the open so that we can have substantial justice for all concerned in this case. I have, just now as I gave the communication, noted that there was no signature.

The person who has signed this document is actually a member of staff, a clerk of this assembly who is not a member of the party. As it is, this document is null and void but I choose not to delve into that. No member of the TNA Party has signed this document. I just wanted the majority whip to go put things in order so that I can address this issue substantively and conclusively. Just look at these issues highlighted. Yes member for Kipipiri.

Hon. Michael Kirumba: Mr. Speaker, if I get you right, to cure this matter that has been dragging us behind and putting the House leadership into a quagmire, are you, Mr. Speaker, suggesting that in the event that the chief whip forgot to append his signature, that he could append it right now and put the case to rest? There have always been instances of omission and there is always a window and a solution. The TNA party has no impediment on this case and if the DP party has an issue, can we not dispense off one matter and leave the one that has issues, at least for now?

Speaker: I would not like, as I am seated here, to give any advisory on that. As I said, let the Majority Whip put his House in order. We are laying a foundation here and we must ensure that whatever we do here is sound and could be borrowed by other legislative bodies. Had I not noted the anomaly that I just highlighted, I would have delivered a joint communication but I could still make a communication regarding one party.

I had already decided on the kind of communication I was to make until the Minority Whip came to me and raised some issues quoting a certain jurisdiction I had not seen before. Consequently, I had to change the line of communication that I had intended to make. We must have a seamless movement towards the right direction. Yes member for Gatimu, Hon. John Kieru Wambui.

Hon. Kieru Wambui: Mr. Speaker, let's not leave any stone unturned. Now that this document is not in the custody of the Majority Whip, now that it is in your custody, what do

you mean that the Majority Whip should put his House in order? The documents, anomalies and all, are now in your office. What exactly, Mr. Speaker, do you mean?

Speaker: You know, if I wanted the chief whip to deal with personal issues, I would have raised something else. He has his TNA members and I believe he will come to me we whisper some few issues so that he can see what I have and then he can go and consult with his members. That is what I expect.

I do not have the requisite materials from the TNA side to make a sound judgment but I believe we will be able to get out of this and move on. The county is bigger than the rest of us. Next order!

PETITIONS

PETITION OF THE NYANDARUA COUNTY LIBERATION WAR VETERANS

Speaker: Hon. Members, I wish to apologize for this because I have talked with the member concerned and we agreed that some of these terms are not viable. I gave very clear instructions to my legal department on what ought to be in that petition and what should not be there but I can still see some of those issues here. This House cannot recognize the Mau Mau movement because it is a national movement. Mau Mau veterans are all over the country. I had pointed that out to the legal department I don't know what happened. The director is here and he knows what we talked about. This petition is illegal and it cannot be tabled here. Next order!

PETITION

PETITION OF THE OFFICERS FROM THE MINISTRY OF EDUCATION, CULTURE AND SOCIAL SERVICES IN NYANDARUA COUNTY

Speaker: Yes, County Member from Githioro, Hon. Dorcas Kihara. Again, Hon. Members, I would like to register my disappointment on this. This petition purports to be a public petition but it comes from civil servants. You cannot have a public petition by civil servants who have other avenues to channel their grievances. Petitions are for the members of the public and the legal department ought to have noted that. We have agreed with the Member not to have it tabled until the legal department sorts out these issues. Next order!

PAPER LAID

PROGRESS REPORT ON THE CONSTRUCTION OF NDANJO-MUSYOKA ROAD AND FLYOVER BUS PARK IN MAGUMU WARD.

Speaker: Yes, Vice Chairperson Committee on Roads, Public Works and Transport and the Member for Nyakio Hon. Joshua Muriithi.

Hon. Joshua Muriithi: Thank you Mr. Speaker. I beg to table a progress report on the construction of Ndanjo-Musyoka road and Fly-Over Bus Park in Magumu ward.

Mr. Speaker we got a letter to carry out...

Speaker: Hon. Member, do you have a copy of the progress report?

Hon. Joshua Muriithi: Yes Mr. Speaker

Speaker: Do the Members have it?

Hon. Joshua Muriithi: It is in the Members' files.

Speaker: I have seen my copy and I hope that the members have it. You can proceed.

Hon. Joshua Muriithi: The letter requested the committee to carry out inspection of the road and bus park to assess their status. At the request, the committee decided to visit the Ndanjo-Musyoka road and the bus park on 8th October 2015. The report is the outcome of that inspection.

The committee visited the Fly-Over bus park, which is located along the Nairobi-Nakuru highway. The Ndanjo-Musyoka road is at Gwa Kanyua market. The aim of the visit was to assess how the road was done, how the culverts were installed and how the bus park was graded.

I will not go through chapter two, whose content is the deliberations of the committee. Every member has the report and can read though. The next chapter has the findings and observations and it reads as follows:

Mr. Speaker Sir, from the above deliberations and site visit, the Committee made the following observations:

Ndanjo- Musyoka road.

1. The road was gravelled very well although compaction was not thoroughly done, hence huge hard-core are still visible.

2. The road was narrow against the recommended 6 meters width; hence two motorists cannot pass each other.

3. The standards of culverts installed were not adhered to. Many of the Culverts installed have started cracking, others do not have headwalls, and the concrete ration does not meet the standard ration of 20/20 with a volume of 1.15 m³ per headwall.

4. The road is not compacted to achieve the uniform thickness of 100mm as specified in the Bill of Quantity.

5. The drainage system was not done; this makes the road vulnerable to erosion and culverts clogging eventually making the road impassable.

6. The road length and width was not specified in the Bill of Quantity dated 24/04/2015, hence the Committee could not ascertain the actual width and length that was supposed to graveled and compacted.

7. The contract awarded specified two roads namely;

- Danjo – Musyoka Road, and
Makuno – Wangai road.

1. There are no sign boards at Ndanjo – Musyoka road and Makuno – Wangai road, as stated in the BQ.

2. The contractor installed four culverts instead of six culverts as stated in the B.Q.

Fly over Bus Park

3. The bus park had been gravelled, but no compaction was done therefore making the surface run-off drain towards hotels and kiosks.

4. The contractor did not do a drainage system to collect surface run-off and drain it outside the bus park.

5. Although the committee had not been furnished with the Bill of Quantity for the bus park, the committee noted that the uniform compacted thickness of the bus park had not been achieved making some areas within the bus park rugged.

6. In addition, the bus park has an exit and an entrance, the exit is connected to Nairobi – Nakuru Highway that the contractor had gravelled very well to join the highway.

However, the entrance is not well connected to the road leading to Njabini by the virtue of the fact that there is a big trench that makes it difficult reach the bus park.

7. The gradient of the bus park is only done to incline to one direction making it unfavourable to businesspersons on the other side who have heaped bags of sand at the front of their businesses to prevent flooding.

Mr. Speaker Sir, the Committee came up with the following recommendations:

1. That the Department of Roads, Public Works and Transport submit B.Qs with pricing of all activities to the Committee on Roads, Public Works and Transport to allow the Committee cost the work done against the payments made to the contractors;
2. That the Committee on Roads, Public Works and Transport should revisit the aforementioned sites and inspect the projects accompanied by an independent Quantity Surveyor so as to assess the value for money before compiling the final report.

The Committee further came up with the following recommendations that in future;

1. All contractors who fail to complete work within specified time be suspended and their contract revoked;
2. County Department of Roads, Public Works and Transport should give all contracts as a whole and not in parts. That is, for one road, all works of Grading, graveling and installation of culverts be done by one contractor;
3. Contractor should not be paid before the area Member for County Assembly (MCA), together with the Department of Roads, Public Works inspects the work and the people are satisfied;
4. The County Department of Roads, Public Works and Transport should consult with the area MCA before the contractor starts the project. In addition, the area MCAs should be issued with a complete copy of the BQs to assist them during inspection; and
5. There be joint site meetings that include the Contractor, area MCA and Engineer from County public works to allow monitoring and evaluation of the work being done as the project continues.

In conclusion Mr. Speaker Sir, The Committee was not in a position to do a conclusive investigation and get to the root cause of the shoddy work done on Ndanjo-Musyoka Road and Fly Over Bus Park. The reason being that the committee did not get the requested information from the County Department of Roads, Public Works and Transport despite requesting for it through a couple of letters; See annexure (ii). For this reason, the Committee resolved to table a progressive report on the matter as it waits for the information from the Department in order to compile a conclusive report.

Thank you Mr. Speaker Sir.

Speaker: Very well. I believe from the observations, findings and recommendations, as well as what the committee requires to see in order to come up with the final report will enable the House conduct an appropriate and conclusive debate on the whole matter.

Next order.

NOTICE OF MOTION

VIREMENT OF THE NYANDARUA COUNTY SUPPLEMENTARY BUDGET FINANCIAL YEAR 2015/2016 BY REALLOCATING FIVE MILLION KENYA SHILLINGS ALLOCATED IN THE VOTE HEAD OF CONSTRUCTION OF DESIGNATED PARKING AREAS WITHIN KARAU TOWN TO THE VOTE HEAD ON ASSORTED ROAD WORKS WITHIN KARAU WARD

Speaker: Yes member for Engineer and the Leader of Majority, Hon. James Mwangi Gichuki

Hon. Mwangi Gichuki: Thank you Mr Speaker. I was wondering whether this is the last notice of motion I am giving...

Hon. Michael Kirumba rises on a point of order

Speaker: What is it member for Kipipiri?

Hon. Michael Kirumba: Mr Speaker, is the Leader of Majority in order to insinuate that what he is going to read would be the last one as if he is going to pass on? I think for record purposes such language should not be used.

The Leader of Majority looks young and very healthy and so we expect him to read many more of what he is just about to read. He should not have used such language and he should withdraw and apologise. All of us are wishing him well, the court case notwithstanding. Remember also that the people of Engineer have confident in him. Thank you Mr Speaker.

Speaker: I appreciate the concerns of the Deputy Leader of Majority. If the Leader of Majority is not there we shall be left without one. Leader of Majority, you have a duty in your hands to deal with issues in the order paper concerning your position, therefore you should proceed.

Hon. Mwangi Gichuki: Thank you Mr Speaker. I beg to give notice of the following motion:

That this House does resolve to approve the virement of the Nyandarua County Supplementary Budget Financial Year 2015/2016 by reallocating five million Kenya

shillings allocated in the vote head of construction of designated parking areas within Karau town to the vote head on assorted road works within Karau ward.

Thank you Mr Speaker.

Speaker: Very well. The notice of motion is duly given and the time for moving the motion will be allocated by the House Business Committee. Before we proceed to the next order, member for Kipipiri you remember you had a motion on putting signages on road, which amount to the work of the contractor and not the county government.

Through the Director of Legal Services in the Assembly, I directed the legal office to redraft the motion so that the resolutions of the House on the same edify that under the Highway Code it is the role of the contractor and not the county government to put the road signages. So that motion is being redrafted.

Yes member for Kipipiri.

Hon. Michael Kirumba: Thank you Mr Speaker for highlighting that. The money that was allocated for roads was much reduced and you can imagine how many roads need to be upgraded in the whole county. If a road had been allocated Kshs. 500,000, I do not expect the money to be reduced to Kshs. 470,000. That is also a concern that we had. Thank you Mr. Speaker.

Speaker: Actually, the signages are like a bonus given to the client by the contractor but installing the road signs should not be charged such that contractors earn millions on the same. Yes member for Central, Hon. Peter Maina.

Hon. Peter Maina: Thank you Mr Speaker. Mr Speaker, the issue of inspection fee is bringing a lot of problems. If the inspection committee is inspecting roads in Ndaragwa Central, it should assign the same a single day. The committee should not inspect every road on a different day. This should be included in the motion.

Speaker: Since there is a legal clerk in the House, the motion should also include the concern by the member for central, that the inspection should be conducted in terms of sub counties. That would reduce the money used on inspection and more money would be saved for the benefit of Wanjiku.

Yes member for Kanjuiri, Hon. Suleiman Kimani.

Hon. Suleiman Kimani: Thank you Mr Speaker. There is another issue on the signages. You will find that a signage was put on a road that was upgraded, for example, in 2013/2014 financial year. Unfortunately, if upgrading of the same road was not completed, money is allocated in the following financial year for a signpost on the same road. That is also a concern. Thank you.

Speaker: Yes member for Wanjohi, hon. Mumba Gichini.

Hon. Mumba Gichini: Thank you Mr Speaker. Why should Kshs. 30,000 be allocated for putting a signpost yet the signposts, like in my area, are made of wood which disintegrates very fast? In addition, I have seen they have allocated Kshs. 64,000 and Kshs. 90,000, money that I find too much. Thank you Mr Speaker.

Speaker: Very well, those concerns on the signages and inspection will appropriately be registered in the motion.

Next order

MOTION TO BE MOVED

REPORT OF THE COMMITTEE ON EDUCATION, LABOUR AND SOCIAL SERVICES ON
KYISA 2ND EDITION HELD IN KWALE COUNTY

Hon. Nancy Ng'ang'a rises on behalf of Hon. Josphat Kamau

Speaker: Yes county member from Kipipiri and the vice chairperson of the committee on Education, Labour and Social Services, Hon. Nancy Ng'ang'a.

Hon. Nancy Ng'ang'a: Thank you Mr Speaker. I beg to seek leave not to move the motion today. The Committee on Education has subcommittees and members of the committee that deals with sports are not present today because they are out on a benchmarking activity.

Actually, the one who heads the sports subcommittee is Hon. Kamau Ngotho and he requested me to seek leave that the motion be moved another time. He felt that the motion has a lot that involves the youth, which would of great concern to all members. Thank you Mr Speaker.

Speaker: Very well, actually the chair of the committee together with the member for Karau insinuated that they would want the motion moved when all members of the committee are present because there are issues in the report that would require the members input since they affect them directly.

Actually, most of the members of the Committee on Education, Labour and Social Services are also members of the Committee on ICT and e-Government and a good number of them are not here today. Therefore, that leave is meritorious, unless there is objection, I would granted.

No point of objection is raised

So, the motion will be allocated time for moving next week.

Next order!

MOTION TO BE MOVED

REPORT OF THE COMMITTEE ON ICT AND E-GOVERNMENT ON THE STATUS OF ICT IN
THE COUNTY.

Hon. Nancy Ng'ang'a rises on behalf of Hon. Kamau Ngotho

Speaker: Yes county member from Kipipiri and the vice chairperson of the Committee on Education, Labour and Social Services, Hon. Nancy Ng'ang'a

Hon. Nancy Ng'ang'a: Thank you Mr Speaker. I beg to seek leave on behalf of the chairperson of the Committee on ICT and e-Government that the motion be moved another time because the said chair is a member of the team that is out on a benchmarking exercise. Thank you Mr Speaker.

Speaker: Very well, I think the members are aware of the commitment of the said chair, even from the foregoing. For that reason, the leave is granted.

Next order!

ADJOURNMENT

Speaker: Hon. Members, the business for this sitting having been exhausted, this House will now adjourn until tomorrow, Wednesday, the 16th day of March 2016 at 9.00 a.m.

The House rose at 3.22 P.M.