



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



(The Hansard)

Wednesday 6th June, 2016

The Assembly met at the Assembly Chamber (P.C.E.A hall) at 9:00 A.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 the standing order 35 (1) and direct that the division bell be rung for an initial ten minutes, or until such time, within the ten minutes, that quorum will be achieved.

(The division bell rings for 7 minutes and quorum is attained as confirmed by the clerk- at -the table)

Speaker: Quorum having been attained, the bell may be disengaged, and we can proceed with the business of the morning session. First order.

PAPERS

ANNUAL DEVELOPMENT PLAN FOR THE FINANCIAL YEAR 2017/2018

Speaker: Yes member for Shamata and the majority whip, Hon. John Kinyanjui Gachari

Hon. Kinyanjui Gachari: Thank you Mr. Speaker. On behalf of the leader of majority, I wish to table the Annual Development Plan for the Financial Year 2017/2018. I table.

Speaker: Very well, the document is duly tabled. Actually it is not the ADP but a proposal inviting the input of the members and the sectoral committees on the kind of projects your people might be expecting, especially the elected members. I am expecting that the members will sit with the relevant sectoral committees and the CEC members so that when we come to the Fiscal Strategy Paper, we will have agreed on these issues.

(Hon. Wambugu King'ori rises on a point of order)

Speaker: What is it member for North Kinangop?

Hon. Wambugu King'ori: Thank you, Mr. Speaker. This House being a House of decorum, is it in order for the member for Kanjuri Ridge to come into this House without a tie?

(Hon. Suleiman Kihika hurriedly puts on a tie)

Hon. Wambugu King'ori: I am sorry Mr. Speaker, I withdraw; the member has managed to do what is required.

(Laughter)

Speaker: Very well, Member for North Kinangop, I see you are adorned in new spectacles. I hope that the members will exhibit seriousness in this matter so that the CEC member for finance can factor in our proposals. Next order.

NOTICE OF MOTION

ENGAGEMENT OF CASUAL LABOURERS IN THE COUNTY

Speaker: Yes co-chair of the joint committee of the Committee on Justice, Legal Affairs and Public Service, the Committee on Implementation and the Committee on Education, Labour and Social Services, Hon. Paul Maina Nderitu.

Hon. Paul Nderitu: Thank you Mr. Speaker, on behalf of the chairman of the joint committee, I wish to give notice of the following motion:

THAT this House does adopt the report of the joint committee of the Committees on Justice, Legal Affairs and Public Service, the Committee on Implementation and the

Committee on Education, Labour and Social Services, On engagement of Casual Labourers in the county as a report of this House and the recommendations therein as resolutions of this House.

Very well, the notice is duly given and the time for processing that motion will be allocated by the House Business Committee. Next order.

MOTION

RESUMPTION OF INTERRUPTED BUSINESS

Speaker: Very well, at the time of the interruption of this business, the Deputy Majority Leader and the member for Kipipiri was on the floor and the practice is that the member should be given first priority. However, the member has indicated to me that he is held up in his ward and will therefore not be present. Furthermore, I have not been able to establish the consequences of the interrupted member not being present on the resumption of business. I am, therefore, not able to give directions without the benefit of doubt and whenever the member comes in and manages to catch the eye of the Speaker, he will be given the floor to proceed from where he stopped. For the time being, the clerk may read the motion to allow for the continuation of the debate.

REPORT ON AUDITED FINANCIAL OPERATIONS FOR THE COUNTY EXECUTIVE IN THE YEAR 2013/14.

Yes Majority whip and Member for Shamata, Hon. John Kinyanjui Gachari.

Hon. Kinyanjui Gachari: Thank you Mr. Speaker, this motion has touched and implicated prominent people in this County...

Speaker: Member for Shamata, please allow me to interject. Hon. Members, the moment I reported to office this morning, I requested to see if any amendments had been brought to the office but I was told nothing had been received either in the office of the Clerk or that of the Speaker.

Members, you appreciate that the reason we adjourned this debate was because members indicated that they needed to amend the report but since up until now no amendment has been

brought forward, people might express their disgust or disapproval but the motion will proceed as it is and no amendments shall be allowed. Proceed member for Shamata.

Hon. Kinyanjui Gachari: Thank you Mr. Speaker, as I was saying, this report touches on the core leadership of this government. We expected the committee to forward its amendments and I therefore do not support this report because it directly incriminates someone like the CEC member for finance who has been named in the report but was not in office then...

(Hon. Githinji Mwaniki rises on a point of order)

Speaker: What is it Member for Geta, Hon. Githinji Mwaniki.

Hon. Githinji Mwaniki: Is it in order for the member, who is a member of the committee and having appended his signature, to oppose this report while he ought to have done it at the committee level?

Speaker: Actually Hon. Members, I thought I dealt with this issue in regard to the case of the Minority leader. I quoted a ruling by Hon. Ole Kaparo on the case of Murathe, where a member went against a document that was already in the House. I also cited the PIC/PAC case in the National Assembly and the County Assembly of Vihiga where similar rulings were made and it was ruled that a member, having expressed a contrary opinion at another level has absolute freedom to change his position during the debate in the House. Proceed member for Shamata.

Hon. Kinyanjui Gachari: Thank you Mr Speaker for protecting me because this is the plenary and not PIC/PAC committee sitting. As a member of this House, I am allowed to contribute to any motion. It is abnormal for a person to be surcharged over Kshs. 200 million.

(Hon. Kimani Njiraini rises on a point of order)

Speaker: What is it member for Kaimbaga Hon. Samuel Kimani Njiraini?

Hon. Kimani Njiraini: Mr Speaker, I seek your guidance because the chairperson of PIC/PAC requested this House to be allowed to go and make some of these amendments and it is in the Hansard, after which they would bring the report back to the House.

Speaker: I remember the chairperson of the PIC/PAC standing at the dispatch box and indicating that there were some sections of the report that were erroneous. The chairperson also knows that the motion having been moved and seconded, it becomes a property of the House. If he requires to do anything on that particular report, he should seek the leave of the House to withdraw the same so that they be allowed to sit further on the same report and make any adjustments that they deem fit. The report is no longer a property of the committee and it is therefore upon the chairperson to indicate whether he wants to follow such a path. Yes chairperson PIC/PAC and the member for Githioro, Hon. Silvester Kagiri Mwangi.

Hon. Silvester Kagiri: Thank you Mr Speaker, it is true that last time I expressed some interests to move some amendments but it was on only one item. I have been advised by the Clerk-at-the-table that it is possible to withdraw the report so that we can do the amendments. I however stand with my report.

(Hon. Wambugu King'ori rises on a point of information)

Speaker: We are not on debate and therefore information may not be welcome. You can only offer information in the process of a debate but this is not a debate. We have just asked the chairperson to stand and clarify the status of his own report. He understands his report better than the Deputy Speaker. Member for Githioro proceed.

Hon. Silvester Kagiri: Thank you Mr Speaker for that defence, I wish to withdraw the report so that we can give notice of the amendment to the chair and notify him the amendment that we would like to make as a committee.

Speaker: The chairperson committee on PIC/PAC is moving a motion that with the leave of the House he be allowed to withdraw the report for purposes of doing some adjustments on the same. Do you have someone to second? Yes county member from Githioro Hon. Dorcas Nyambura Kihara

Hon. Dorcas Kihara: Mr Speaker, I second that we be granted leave to withdraw the report so that we can make adjustments on the same.

(Question proposed)

Speaker: Yes member for Kaimbaga. Maybe for advice, because this is an important matter, this is the time that the members can explain the areas that they would like the committee to look into although the chairperson is very clear on the area that he wants to attend to.

Hon. Kimani Njiraini: Thank you Mr Speaker. I appreciate the chairperson of the committee on PIC/PAC for making such a move. I am of the view that the amendments that the committee is intending to make will create problems in this county. Those people that have been mentioned in the report by mistake are disappointed however, the committee should make those amendments. It should be noted that as a House we are not rejecting the report. All that they should do is to make amendments and we shall adopt the report. I support the motion.

Speaker: Yes, Deputy Speaker and the member for North Kinangop Hon. Edinald Wambugu King'ori.

Hon. Wambugu King'ori: Thank you Mr Speaker, I support the motion, but I was of the opinion that it would be more prudent that we defer the question because after withdrawal, it means that the process of moving it in the house would be followed from the start, that is from laying the report on the floor of the House, giving notice of motion etcetera.

On the other hand, it is okay for it to be withdrawn because it has so many grey areas that require to be amended especially expunging the name of the CECM for finance Hon. Nderi and the issue of Kshs. 230 million that was to be surcharged from a certain chief officer that has already resigned. I support.

Speaker: Yes member for Mirangine Hon. David Ndirangu Ngigi.

Hon. David Ndirangu (Mirangine): Thank you Mr Speaker, I support the withdrawal of the report. I have concerns that the committee should address. This report has mentioned me and the member for Kanjuiri and it has said that we were sitting with the executive to decide where the materials will come from. I remember very well and the member for Kanjuiri can attest to that, we sat with the governor once asking where the machines were. We asked whether we can look for machines on behalf of the county because time was running out. We were told by the governor that it is their duty to procure machines. Mirangine and Kanjuiri Ridge are the wards that got

machines the last minute. In the records of the work done in the 2013/2014 financial year, Mirangine and Kanjuiri ridge wards did the least and had the the least amount.

I told the governor that for Mathakwa-Mirangine road, we would look for materials elsewhere because the materials in Ol'kalou were finished and they had been forced to get them from far. The said road was so poor that even a tractor would not use it. There were deep gullies that needed to be filled.

The Chinese contractors did the Ol'kalou-Ndundori road and were sourcing materials from some place and that is where I was suggesting they get materials from so that they can go and compact the said road. That is what we did. It is after this that the governor abruptly stopped the road construction. Politics also played a very big role when the member of the National Assembly came there with his men and said that the road was poorly done yet it had not been done. I would like the committee on PIC/PAC to address that issue elaborately. I said this for record purposes.

Speaker: Hon. Members, I think it is good that we carefully scrutinize this report by PIC/PAC because some of the assumptions are completely erroneous. There are areas where PIC/PAC received and reported evidence, as presented to it and there is the section where they are making their recommendations. They had to record the evidence, as presented to them, but in their recommendations they are very clear. For instance where the member for Mirangine and the member for Kanjuiri are mentioned but the PIC/PAC report, I have thoroughly went through the report, it merely records what was said by the witnesses that appeared but are very clear in their recommendations. We should be able to look at that report from that perspective. Yes county member from Weru, Hon David Ndirangu Mwangi.

Hon. David Ndirangu (County Member): Thank you Mr Speaker, I support the withdrawal of the report. My concern is time. We should set timelines because this document has already gone to the public. It is generating a lot of heat. The chairperson said that he needs a short time to make amendments in some areas. We do not want to be seen as if we are throwing this baby out of the assembly. I ask the committee to take the shortest time possible to look at this report and bring it back for debate.

Speaker: Yes member for Gathaara, Hon. Daniel Kibebo Ruara.

Hon. Daniel Kibebo: Thank you Mr Speaker. I rise to support the motion by the chairperson of PIC/PAC to withdraw the report so that they can go and make some amendments. Mr Speaker, I however need your guidance because this document is in the public domain now.

Mr Speaker, you should guide us on how the amendments will be done because this is touching on us especially the elected members bearing in mind the perception of the public now that the document had already been released. That was my main concern. Thank you.

Speaker: Yes, Member for Karau, Hon. Sammy Kamau Ngotho.

Hon. Kamau Ngotho: Thank you Mr. Speaker. I am not sure whether we are withdrawing the report or the motion and I am hopeful that the chair will tell us. In addition, I would like a clarification as to whether we are amending the content of the report because I believe we are amending contents within the report and not the motion itself. It is also my belief that amendment on the report can be moved by any member as we progress.

Mr. Speaker, I am of the view that we should not withdraw it but rather have a procedural motion to extend the life of the report. This will allow the report to be discussed in several phases. It shall be appearing in the order papers for the next one month or thereabout where Members can be discussing it in deeply.

Speaker: I think the Member for Karau has raised a very important issue but again, I suppose you should appreciate the directions I had given earlier on. I gave the Members seven days to file their notices of amendments. I had no reason to allow the members to make amendments on the floor of the House without having given notices of amendments as per my earlier directions. Therefore, the members found that it would be very punitive to be proceeding without any amendment and that is why the report and to a larger extent, the motion, are being withdrawn so that the committee can attend to the same.

Hon. Kamau Ngotho: Thank you Mr. Speaker for the information. However, and as Hon. Kibebo has stated, the media can fabricate issues and when the issue of withdrawal arises, they will say that the Assembly has withdrawn the report from the floor of the House and taken it back to the Committee and you all know how it will go from there in terms of fabrication.

The issue of amendment is captured very well but I was looking at the issue of procedure where maybe we could discuss the report in sections or chapters. If any Member has an issue or

an amendment with any section of the report, he or she can raise it when the chapter is discussed. Apparently, the report is very voluminous and I was looking at precedents of the Senate and other parliaments on how they discuss such reports especially by PIC/PAC. Actually, they do it chapter by chapter. Again, the issues that the report raises are very important and sometimes one page of the report can take a whole session of discussion and debate. I was therefore thinking whether we can have a procedural motion to address each chapter at its own time, maybe one week. Thank you.

Speaker: I think that is good enough but again, the committee itself has indicated that there are some grey areas in the report that it would like to make corrections on and improve on factuality of the information it has. Therefore, let us have the committee come up with a report that is comfortable with and then we can come here and decide on how to debate the report. This is after the PIC/PAC committee agrees that it has the correct report because the committee has said that some of the submissions were not factual. Let the committee come up with a report that satisfies them and thereafter we can devise a way to interrogate the same.

On the issue that had been raised by the Member for Gathaara concerning the press and the issue on the speed with which we should bring back the adjusted report as alluded to by County Member from Weru, time is of essence because the report, having been in the public domain, the Standing Order 179 (7) is clear that a report should be public immediately it is published. It says;

Within forty eight hours after the report has been laid on the Table of the Assembly, the Clerk shall publish the report in the Assembly website and circulate copies to members.

The Assembly website is a public platform and therefore, the report should go to the public immediately it is tabled. The most important thing is what interventions we are going to put in place so as to have the report withdrawn so that we can now work on very strict timelines within which the report should be brought back and may be next week so that we agree on how to deal with it. Any other concern on the matter? Yes Member for Githioro and Chairperson of PIC/PAC Committee, Hon. Silvester Kagiri.

Hon. Silvester Kagiri: Thank you Mr. Speaker for your wise advice. We will be in a position to bring the amended report by Wednesday next week. I would also like to invite the Hon. Members to make submissions to the committee on any area they feel that amendment(s) would be necessary. We shall gladly accommodate their ideas as a committee.

I would like to advise the members on the Forensic Report that was tabled in this House yesterday with the request of the Senate. I would urge and request the Members to look into that report and its contents and compare it with what we have here. This is just in case any Member would wish to propose any amendment on the report. For us, our amendments were very clear because it is only some things that were erroneously put there. Maybe because of some typing errors. A report with more than 190 pages is prone to such errors. We should therefore be left to amend one page which we feel has some errors...

(Hon. Kamau Ngotho rises on a point of order)

Speaker: What is Member for Karau?

Hon. Kamau Ngotho: Is it in order for the Hon. Member to say that only one page of the report contained some errors yet he is urging the Members to compare the report with that of the Senate? I know very well that the chair is versed with the two reports. The Senate report does not mention Michael Kamau Kuria while this report by PIC/PAC has mentioned him severally. So, we should not over rely on the Senate's reports but rather use our own sobriety and discretion. Both reports should be independent. Thank you.

Speaker: I agree with that since we are supposed to defend our independence. Actually, the Senate has requested us on various occasions that before we discuss their report, we should furnish them with what we have on the audit queries. What I am getting from the report is that some people sat down and listened to people and made very serious recommendations. The recommendations might have escaped some facts here and there but it is important that we digest and internalize the report before we even make recommendations so that we have a report that cuts across the board and we can submit it to the Senate which will use it as a guide when coming up with their final report.

Hon. Silvester Kagiri: Mr Speaker, although I don't want to be seen as defending our report, please allow me to highlight some issues that Hon. Ngotho has pointed out on why Michael Kamau Kuria was mentioned in the report. What we have here is not a Senate's report but a forensic audit which the committee should comment on. That is the reason it was forwarded to us and the Assembly was given a copy. If you go through the report, there is somewhere they have mentioned that action should be taken against some officers such as Thiga. We happened to meet these officers during our interrogations and they clearly stated that Michael Kamau was the Chairman

of the tendering committee and a very influential person because he was working together with the late Nelson Ngaruiya.

In addition, the report on implementation, from the Controller of Budget- and Hon. Michael Kamau should be listening to this- says that, as at 31st March 2014, the money that had been paid was Ksh. 185 Million for the roads. Mr. Kamau was confirmed and started working on 1st April 2014. Therefore, much of this queried amount was paid between 1st April and 30th June 2014 when he was the C.O and bearing in mind that he was very influential as the chairperson of the tender committee earlier before, the most logical conclusion is that they used to work hand in hand with contractors. Mr Mwaura and Mr Thiga confessed this during the interrogation. Hence, the Committee did a very thorough investigation into the matter. Thank you.

Speaker: Before we comment very passionately about this report, please give the members some of the evidence that is not attached to this report since you have indicated that the documents are in the office of the clerk. Thereafter, we shall come up with a final report.

(Question put and agreed to)

Hon. Members, this being an issue that is in the public domain and the House wants to settle this matter once and for all, I request the chairperson of the committee to decide whether he wants to do an addendum on the report on the issue you have clarified on but because some people are very interested to see how the report has been done, I would wish that you don't touch the report. Instead, you do an addendum clarifying on the content so that the people do not think that we are hiding anything. We need to have that report on Wednesday, for tabling in the House.

Next order.

ADJOURNMENT

Speaker: Very well, the business for the session having been exhausted, this House will now adjourn to today, Wednesday, the 6th day of July 2016 at 2.30 p.m.

(The House rose at 10.00 a.m.)