



REPUBLIC OF KENYA

NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – First Session

Tuesday 25th June, 2013

The House met at 2.30 p.m

(Deputy Speaker in the Chair)

PRAYERS

PAPERS LAID

The following papers were laid on the table:

- a) The report of the Budget Committee on the scrutiny of the budget estimates of the County Government and County Assembly for the financial year 2013/2014
- b) The fourth report of the Procedure and Rules Committee on the amendments of the Standing Orders of the Nairobi City County Assembly.

COMMUNICATION FROM THE CHAIR

Hon. Deputy Speaker (Mr. Kennedy Ng'ondi): Hon. Members order! The office of the Speaker has received a communication and here I read;

“The Hon. Members I have received a letter from the Governor on the 18th June 2013 in regard to the launch of Nairobi City County clean-up scheduled for Saturday 29th June 2013 at the Huruma grounds in Mathare Constituency starting at 10.00a.m. H.E. the President is expected to grace the occasion. Hon. Members are invited to attend the function and they should get in touch with the liaison officer, Dr. Leah Oyake at this contact; Director of Environment, contact number 0202073846 or mobile number 0714046311. Find the attached copy and the Serjeant- At -Arms to circulate the same Thank you.”

PAPERS

Hon. Member for Embakasi Ward (Mr. Michael Ogada Okumu): Thank you Mr. Speaker sir. I beg to lay the following paper on the table of the Assembly today Tuesday 25th June 2013; the report of the Budget Committee on the scrutiny of the budget estimates of the County Government and County Assembly for the financial year 2013/2014.

Hon. Member for Uthiru/Ruthimitu Ward (Mr. John Waweru): Thank you Mr. Speaker, I wish to lay the following paper on the table of the Assembly today Tuesday 25th June 2013; the fourth report of the Procedure and Rules Committee on the amendments of the Standing Orders of the Nairobi City County Assembly.

Hon. Deputy Speaker: Hon. Member you have not laid on the table the paper.

(Members hands over the paper to the Clerk)

NOTICE OF MOTION

NOTICE – MOTION ON ADOPTION OF THE REPORT ON BUDGET ESTIMATES

Hon. Member: Thank you Mr. Speaker sir, I beg to give notice of the following motion, that this County Assembly adopts the report of the County Budget Committee on the budget estimates for the County Government and the County Assembly tabled in the County Assembly on Tuesday 25th June 2013 by the Budget and Appropriation Committee chairman.

Hon. John Waweru: Thank you Mr. Speaker, It is my wish that this County Assembly adopts the fourth report of the Procedure and Rules Committee on the amendments of the Standing Orders of the Nairobi City County Assembly laid on the table of the Assembly today Tuesday, 25th June 2013.

Hon. Deputy Speaker: Hon. Member can you read the Standing Order

Hon. John Waweru: I do not have the Standing Order but I can make reference. *(Goes for the document)* I now have it here with me. Under the scrutiny of the County Assembly Standing Orders; the Procedure and Rules Committee received the following submission:

- a) Amendment to Standing Order number 186 proposed by Hon. Peter Wahinya Kimuhu, and seconded by Hon. John Waweru Kinuthia. Upon the above submission and further scrutiny of the County Assembly Standing Orders.....

Sorry there was confusion. I read from order number eight(8) that pursuant to the standing order 235 (5) this Assembly approves the report of the County Assembly Rules and Procedure Committee on the amendments to the Standing Orders of the Nairobi City County Assembly. Thank you.

Sorry. I am calling upon my honourable colleague, Mr. Wahinya to second the same.

Hon. Deputy Speaker: Order Member! We need a communication from the Clerk. Hon. Member may I inform you that you were just giving the House a notice of the motion and not moving the motion.

Hon. John Waweru: Thank you

MOTION

MOTION - APPROVAL OF THE FOURTH REPORT OF THE PROCEDURE AND RULES COMMITTEE

Hon. Member: I am sorry to bother the House Mr. Speaker but this is very important; that pursuant to the standing order 235(5) this Assembly approves the fourth report of the County Assembly Rules and Procedure Committee on the amendments to the Standing Orders. Thank you.

Hon. Deputy Speaker: Hon. Member you have just read the motion as it is on the order paper but you have not moved the motion. So you need to tell this House why you need the amendments on the said Standing Order number 235(5)

Hon. John Waweru: I am sorry, Mr. Speaker but it is evident that in all Commonwealth Countries the Government never supervises itself and we as the opposition wish that the Parliamentary Accounts Committee (PAC) be chaired by a member from this side (*minority side*) of the Government. Thank you.

Hon. Deputy Speaker: Hon. Member you need to ask someone to second your motion

Hon. John Waweru: Yes, today it seems I am confused, Mr. Speaker, but I apologize for that. I am calling upon my colleague Hon. Wahinya. Please come and support this very important motion.

Hon. Member for Ngando Ward (Mr. Peter Wahinya Kimuhu): Thank you, Mr. Speaker, I stand here this afternoon to second this motion and probably make one comment as I do so. This Assembly is fairly new as you all know the County Assemblies were introduced recently and we are the first members of this Assembly. As a result we have borrowed very heavily from the National Assembly and it is my opinion.....(*Interruption*)

Hon. Deputy Speaker: Order Hon. Member! Hon. Akuk

Hon. Member for Nyayo Highrise Ward (Mr. Maurice Omondi Akuk): Thank you Mr. Speaker, I take this opportunity to give some information to our colleagues and the Hon. Member who has been on the floor trying to second this motion; because I believe if we are going to follow the rules and procedures of this House and if we are going to follow the practice of the Commonwealth House I believe that this motion that is coming from the majority leader's side should actually be read by the majority leader. Thank you.

Hon. Deputy Speaker: Order Hon. Members! Hon. Members from the communication on the order paper, as it appears, the motion ought not to have been read by the Leader of Majority but by the Chair of the Rules and Procedure Committee that is Hon. Ole Magelo. It is only by way of leave, if he assigned

another Member to move the motion on his behalf. (*Applause*) so that is a communication we need to know; if anybody was assigned to move the motion on behalf of the Speaker of the County Assembly.

Hon. Maurice Akuk: Mr. Speaker, I am not standing here to oppose your ruling, but it could have been fair, as this is a fair house as the Hon. Wahinya has already stated, to be informed through the order paper that such a person has been granted the mandate to move the motion. Anybody can stand Mr. Speaker and we don't know whether the Speaker had assigned this particular fellow to move this motion. It is quite unfair, Mr. Speaker

Hon. Deputy Speaker: Hon. Minority leader

Hon. Leader of Minority (Mr. Abdi Ibrahim Hassan): Mr. Speaker is it in order for the Member to question the Speaker's ruling

Hon. Member for Nairobi South Ward (Mr. Manoah Karega Mboku): Thank you Mr. Speaker, there seems to be confusion with regard to this motion. May I suggest that we defer this motion.

Hon. Deputy Speaker: Hon. Member, the last one

Hon. Member for Kilimani Ward (Mr. Moses Ogeto Nyangaresi): Thank you Mr. Speaker sir, for such an opportunity. I want to inform the House that I don't know the role of the House Business Committee because this motion which has been brought to this House did not pass through the House Committee. Mr. Speaker sir, we need your guidance for us to move on this. Thank you.

Hon. Deputy Speaker: Hon. Member, the motion in question if at all it was not taken to the House Business Committee, the only thing that can stop it from being discussed in this House is by way of five Members objecting to the said motion. The five members must rise on their feet to object to the motion. That is....Yes...(Interruption). 'Bado, bado, hajjafika.' So the motion is properly before the House. Can we proceed? (*Applause*) Can the mover of the motion rise again? Order Members!

Hon. John Waweru: Mr. Speaker sir, I am shocked by the comments of the Hon. Members from the other side of the House because as I have just explained it is not the common practice that the Government supervises itself and we have seen in the National Assembly, as our senior colleagues, that the same has happened and I therefore pray that you nullify such comments. Thank you.

Hon. Deputy Speaker: Order Members! Can you all seat! Order Member! You are the mover of the motion so I don't even know what you are objecting to. (*Interruption*) No you can't inform the Chair

Hon. John Waweru: Thank you Mr. Speaker, I thought I should not be repetitive for I know that my colleagues have heard me. As the National Assembly adopted the same system and having that as our higher authority I pray that we all accept the motion. I call upon my colleague to support me. Thank you

Hon. Peter Wahinya: Mr. Speaker thank you, I will only take a minute to give the reason why I am supporting this motion. I had earlier on said that this House is fairly a very young House meaning that most of us are aware that we have borrowed very heavily from the National Assembly and I personally do not

see why we should exclude the Standing Order in question, order 235 because today if you look at the National Assembly that motion categorically indicates that the Chairman of those two watchdog committees shall come from the minority and because we have made a heavy borrowing from Parliament it is in my opinion that this particular item in the Standing Orders should also be borrowed from the same Standing Orders of the National Assembly. My colleague, the mover, has categorically stated that in Commonwealth Governments it is a tradition from time immemorial that Commonwealth Governments cannot play the watchdog role over themselves and this committees should therefore place the chairmanship role on the Minority. I would also like to make a comment in the sense that it will be helpful if we can avoid.....(*Interruption*)

Hon Deputy Speaker: Order Member! Proceed.

Hon. Peter Wahinya: It can be very helpful if we can avoid unnecessary wrangles and acrimony because we are trying to forge a working relationship. Five years is a very long time for us to be in this House and the earlier we learn to co-exist, the better. Co-existence is give and take and therefore I do ask anybody who is hoping to oppose to consider the spirit of give and take. TNA or the Jubilee coalition today is requesting that the Members of the CORD divide should actually give today so that we can keep the spirit of give and take. It will be unnecessary for us to thump our chests, and the business of grand standing in my opinion is really uncalled for Mr. Speaker. Thank you very much

Hon. Deputy Speaker: Hon. Members, by the way, I have not even proposed the question. May I now propose the question that pursuant to the provisions of Standing Order number 235(5) this Assembly approves the fourth report of the County Assembly Rules and Procedure Committee on the amendments to the Standing Orders. Hon. Members, that provides the logic for this motion to be discussed tomorrow.

Hon. Leader of Minority: I do not understand why you say the question....(*Laughs*)...

Hon. Deputy Speaker: Order Members! I am advised from the office of the Clerk that those who raised objection to the motion ought to have stood while the Member seconding the motion was on the floor. (*Loud consultations and interruption*) Now order Members! We need clear guidance. This is a House of rules and procedure Members. You can only fight by way of proposing or opposing. (*Loud consultations*) Order Members! Okay Hon. Members I think the motion has been proposed and we can now go to the debate. Hon. Nyang'wara

Hon. Member for Viwandani Ward (Mr. Samwel Nyaberi Nyang'wara): Mr. Speaker, I do not have a point of order but I would like to contribute to this motion Mr. Speaker. I am happy for the way the Hon. Members on the other side are requesting that we give them these particular positions in these particular committees, but I beg to oppose. I am not opposing this particular motion because I do not want my friends to head these particular committees but because we were involved in intensive meetings where we discussed and agreed that we should, because fairness, donate half the Committees to these Hon. Members. We do not know why they have rushed to request to take these particular committees.....(*Interruption*) Mr. speaker, can I be protected so that I can contribute to this motion.

Secondly, I want to inform my honourable friends from the other side of Jubilee that we are not the Government this side. The Government is H.E. the Governor and the Executive Committee. In fact what we do in this House is legislate and play oversight role over the functions of Government, which clearly indicates we are not the Government. I am foreseeing malice in this motion and it could have been important that the Clerk advised properly on this particular motion.

Hon. Deputy Speaker: Order Member! Can you elaborate on the malice you are seeing in the motion?

Hon. Samwel Nyang'wara: Mr. Speaker, I beg to withdraw that. I never intended to say that statement.*(Laughs)*. The Hon. Members on the other side enjoy chairmanship of three committees which are supposed to be chaired by the CORD side and this is common knowledge....*(Interruption)*

Hon. Deputy Speaker: Order Members! The Hon. Member is on the floor

Hon. Samwel Nyang'wara: Mr. Speaker, I understand that there was an election and there is a committee in place with a chairman and vice chairman.....*(Interruption)* Mr. Speaker can you protect me so that I can contribute to this motion?

Hon. Deputy Speaker: Order Members! Granted

Hon. Peter Wahinya: Thank you Mr. Speaker, can the Hon. Nyang'wara clarify by mentioning which committees we are heading as the Minority in this House? He has said that we have the chairmanship of three committees, can he be specific and mention these committees?

Hon Deputy Speaker: Thank you. Hon. Nyang'wara

Hon. Samwel Nyangwara: Mr. Speaker there is a move to derail my contribution to this particular motion. The Hon. Member stood here on a point of order and yet he has not stated which particular order he stood for, so that I can answer him. It is quite unfair, and I would like to say this so that I can give knowledge to the Hon. Members, in order for them to understand that in the Department of Health they have a Vice Chairman, in the Department of Tourism they have both the Chairmanship and Vice Chairmanship and in the Department of Transport they have a Vice Chairman. It could have been fair...*(Interruption)*..

Hon Deputy Speaker: Order Members! Hon. Millicent

Hon. Samwel Nyang'wara: It could have been fair.....*(Interruption)* What I am trying to say is that....*(Interruption)*

Hon. Deputy Speaker: Hon. Millicent, on a point of order

Hon. Member for Ziwani Ward (Ms Millicent Wambui Mugadi): Thank you Mr. Speaker, I want to correct the Hon. Member with regard to the Chairmanship he is talking about under Standing Order number 235; I refer to the Chairman of Tourism and Trade, I would like to inform the House that the Chairman of

Trade and Tourism was chosen because the Committee Members believed that he was worthy it because he is competent and able. So we should not confuse that with what belongs to the opposition party. Thank you.

Hon. Deputy Speaker: There is a Member on the floor

Hon. Samwel Nyang'wara: Mr. Speaker, thank you very much. I agree with what the Hon. Lady from Ziwani has said, but let us not create wars where they are not supposed to be. What we are seeing here clearly indicates that we are going to bring motions here so that those people in those chairmanship positions may lose their positions by virtue of motions....*(Interruption)*...What I want to clarify is that we have this committee in place with fully elected leaders who have been seen capable of leading these particular committees. That is why I feel it was not well advised and I beg to oppose this motion. Thank you

Hon. Deputy Speaker: Order Members! Hon. Member

Hon. Member for Dandora Area III Ward (Mr. Charles Thuo Kathundo): Thank you Mr. Speaker sir, in case anyone has forgotten, my name is Charles Thuo or you can call me Kathundo. I stand here to support this motion. I am not supporting this motion because I am a Jubilee Member and it is worthy to note that I am a Member of the Public Investment Committee and the Members of that Committee voted for me to be the chairman. They did not vote for me because I am a Jubilee Member. But Mr. Speaker sir, there is a precedence that has been set in this country and that is not in doubt that we all know that Jubilee side in the National Assembly, in spite of their having a very big majority in that House, they still saw it fit to let the Minority lead the oversight committees.....*(Interruption)*

Hon. Deputy Speaker: Order not granted. Let the Hon. Member proceed

Hon. Charles Thuo: Thank you Mr. Speaker sir. We are not changing these Standing Orders for the benefit of this House this year. We are setting a tradition that is going to be followed in this country and in this Assembly for posterity. All this is according to the Standing Orders, because they stand.....*(Interruption)*

Hon. Moses Ogeto: Thank Mr. Speaker for such an opportunity; I want to inform the Hon. Member and also understand from him what he means by the Government and the opposition. Which is the Government and which is the opposition in this committee? We can't refer to concepts which others do not understand. Secondly, I want to say that this is an Assembly comprising of the majority and minority parties. Hon Member, can you categorically define who, then, is the Government and who is the opposition?

Hon. Deputy Speaker: Order Hon. Members! Hon. Member, proceed

Hon. Charles Thuo: Thank you Mr. Speaker, I am standing on a point of order challenging the Members who are standing here on points of order but they are not providing any issues that can be considered as points of order. This is a house of rules and procedure and if any member stands on a point of order he must follow the Standing Order.

We, Members of the Jubilee are a minority in this House and cannot seek these posts using our strength in the House and it must be noted that nothing is cast in stone even the majority or the minority. You do not know who will be the minority tomorrow because this is politics and that's why the rules and traditions of the House must be followed. I am begging the Members from the CORD side to please support this motion so that this House can be seen to be working in harmony...*(Interruption)*. Thank you Mr. Speaker sir

Hon Deputy Speaker: Hon. Member

Hon. Member for Kayole South Ward (Ms Elizabeth Manyala): Mr. Speaker sir, I rise on a point of order number 186, which clearly stipulates that *“(1) There shall be a select committee to be designated the County Public Investment and Accounts Committee.(2) The County Public Investments and Accounts Committee shall be responsible for-*

(a) the examination of the accounts showing...”.

And reading it, it does not say that the Member elected to lead this committee must come from.....*(Interruption)* the opposition and also....*(Interruption)*

Hon. Deputy Speaker: Order Hon. Members! The Hon. Member is addressing the Chair. Please, it is not you. Can you have respect for the House?

Hon. Elizabeth Manyala: Based on the Standing Order number 185 regarding the numerical strength, and if I may quote from David Houston's word on politics that it is who gets what and how.....*(Interruption)*

Hon. Deputy Speaker: Order Member! Just some point of correction, the motion in question here and as stated on the order paper, is with regard to the amendment of the Standing Order. Hon. Akuk

Hon. Maurice Akuk: Thank you Mr. Speaker for giving me another opportunity to make some clarification, give information and let our Members from the other side understand that in this particular House we do not have the Government and the opposition. Why do I say this? I want to give examples so that you agree with me in totality and try and compare notes and believe that what we are actually doing in this House today, trying to amend the Standing Order number 185 and 186, is an illegality. Why I say this is because I oppose.....*(Interruption)* Mr. Speaker, please protect me. I believe I have some 10 minutes to justify my case.

Hon. Deputy Speaker: Order Members! There is a Member on the floor

Hon. Maurice Akuk: Mr. Speaker, I will give an example of the Kajiado County. I believe all Members of this House understand what happened in Kajiado. The County of Kajiado does have a Governor from the CORD side with the majority in that particular House being from the Jubilee side. In that scenario I would like Members from the other side to try and explain to us in that particular House in Kajiado who is the Government and who is the opposition?

For me, I do believe that in such a House or in such a setting there wouldn't be the Government and the opposition because clearly the majority side is from the Jubilee but the Government is the CORD Government. What would you advise on that?

Apart from that in this same House we have been going about our business without thinking of the minority and majority sides that is why if you look at the composition of the sectoral committees we allowed Trade Tourism and Co-operatives committees ...*(Interruption)* and I will give you an example ...*(Interruption)*.. Mr. Speaker, protect me...

Hon. Deputy Speaker: Order members!

Hon. Maurice Akuk: I want to give examples with information and I want to refer to the Standing Order that we are supposed to talk about here. In the same Standing Order it is clearly indicated that upon appointment of Members to a specific committee at the discretion of the Clerk there will be a sitting that shall have the election of a chairman of that committee. This Committee known as Trade, Tourism and Co-operatives elected their chairman who is Hon. Warutere, in Health we elected a Vice Chairman who is Hon. Mugo. These people are serving in the seats thought to belong to the majority side. That means that they are the Government if I am not wrong.

If they are the Government serving on this side who is this opposition who wants to check the same Member from their side. Mr. Speaker, give me time to try and explain more on this. I would like to elaborate so that we have an understanding that when you make a ruling it will be a decision acceptable to all. It will be a decision cutting across the board and in future we will not have a document that will limit Members who will serve in this House after our term.

Many Members will not come back to this House and if they will, they will be affected by the same decision if at all the next Government of this County has a Governor who belongs to a different coalition or party yet the majority of the House belong to a different party or coalition.

Giving an example of Kajiado County, if Hon. Members from the other side, as Hon. Wahinya declared before us, want to put checks on the Government then what is 'Mheshimiwa' Warutere doing with the Government? Is he going to put checks on 'Mheshimiwa' Warutere? Is 'Mheshimiwa' Warutere and Mugo not from his Jubilee side of the coalition? Is 'Mheshimiwa' Kenneth who is also the Vice Chairman for Water not from the Jubilee side?*(Interruption)*..Mr. Speaker, protect me. I believe I still have two more minutes

Hon. Deputy Speaker: Order Members! I will grant you your order

Hon. Maurice Akuk: If this is the trend in this House, Mr. Speaker, I believe that soon in the committees there is going to be a vote of no confidence because clearly the majorities in these committees come from....

Hon. Deputy Speaker: Order Member! A vote of no confidence, in whom?

Hon. Maurice Akuk: What I am talking about is that we are going to have a vote of no confidence in the Members from the other side who are chairmen and vice chairmen in these sectoral committees that I have mentioned. Is that....*(Interruption)*

Hon. Deputy Speaker: Hon. Member, that is not part of our concern....*(Interruption)*

Hon. Maurice Akuk: No I am giving an example. If this is going to be allowed....*(Interruption)* because I do believe we have....*(Interruption)*

Hon. Deputy Speaker: Order Member! Hon. Member

Hon. Maurice Akuk: Majority of us do not understand the Standing Orders. When you stand on a point of order you must.....(*Interruption*)

Hon Deputy Speaker: Order Hon. Member! Proceed on your point of order

Hon. Maurice Akuk: My point was I beg to oppose this motion and I beg your honourable Chair Mr. Speaker sir, to please look at these issues. If we have to change these Standing Orders, it must be something that holds water. Something that is quite substantial that can make a meaning to the future Members of this House Thank you.

Hon. Deputy Speaker: Order! Hon. Warutere

Hon. Member for Roysambu Ward (Mr. Peter Warutere): Thank you, Mr. speaker, I rise here in support of the said motion on a few grounds.....(*Interruption*)

Hon. Deputy Speaker: Order Hon. Member, I will only have two from this side and two from the other side.

Hon. Peter Warutere: I rise here to support this motion on two grounds. I have a lot of respect for the Member who has just spoken. I respect his wish and his sense of purpose and that is why I have decided not to come and may be just respond to what he has quoted, but to stand here and appreciate one fundamental fact, which is that we are not discussing the Government of Kajiado County. This is Nairobi County where we know the Governor and the majority in the House are from one level and that constitutes.....(*Interruption*)

Hon. Deputy Speaker: Order Member! The Governor of Nairobi is the Governor of Nairobi City County not a Governor of a certain party. Please can you withdraw your statement?

Hon. Peter Warutere: I withdraw that statement. Why we thought we need to keep order as it is in these two committees is that, and I want to quote the words of the Leader of Minority in the National Government, Hon. Jakoyo Midiwo, who asked at such time, the reason why a Government that had mandate, that was the Jubilee Government then, would not want to be over-sighted. I will ask the same question if indeed we are the minority; there are two things we must agree on. We went to an election, and this is in response to the issue of Tourism where I am the chair; we went to an election, people saw my qualities and rewarded me for heaven's sake! I was given.....(*Interruption*)

Hon. Deputy Speaker: Point of order Hon. Nelson

Hon. Member for Eastleigh South Ward (Mr. Nelson Masiga): Asante Bwana Spika, kwa kunipa fursa hii. Sijui kwa nini Bwana Warutere anajaribu kuipoteza nyumba hii kwa kusema ya kwamba yeye alishinda kwa uchaguzi na ili hali mwenzetu aliye kitini na ambaye wanatumaini kumng'atua alishinda kwa uchaguzi pia.

Hon. Deputy Speaker: Order Member! Warutere proceed

Hon. Peter Warutere: This Member was not in that committee so he does not even know what happened.... (*Interruption*)

Hon. Deputy Speaker: Can you proceed?

Hon. Peter Warutere: Hon. Speaker, let me proceed on the same. I was on the point of Hon. Jakoyo Midiwo. The question was why the Government which was legitimately elected by the people would not want to be over-sighted. We took the chair of Parliamentary Investment Committee (PIC).... If you go to the senate Hon. Orenge has a sectoral committee and so does Hon. Amos Wako. Not that we are doing anything new. We are doing what is the common practice here; it is a give and take.

We are not here to discuss the issue of Tourism and Trade Committee, we are big boys and girls and we can take care of ourselves. We are here to talk about PAC where we strongly feel something went wrong. We are not even talking about what happened at PAC we are just doing an amendment for posterity purposes. It is only in this sense that we want to ask our Members from the other side not to look so much into what Hon. Warutere is doing in the other committee but to support the amendment for posterity's sake...*(Interruption)*

Hon. Deputy Speaker: Order Hon. Member! Imwatok

Hon. Member for Makongeni Ward (Mr. Peter Imwatok): Mr. Speaker, indeed it is so tedious to listen to my fellow Hon. Member contributing to this motion and I want to register personally my disapproval of the motion. I don't support the motion simply because if we go back to history I have fought wars I have lost some and I have won some. And in this hour I can see it might not be won or lost.

I am the current Chairman, before the amendment of this Standing Order comes into force and I understand the Bill of Rights in the Constitution that gives every individual an opportunity to be elected just like my fellow Hon. Member Warutere, did.

We are 13 members in the PAC committee. The first meeting as per the Standing Order number 196 which stipulates at every first sitting of the Committee, the committee must sit down and elect the Member to chair. On 5th June 2013 we had the first meeting and unfortunately one of the Members who were vying for the seat was not present. He communicated to the Speaker and the Clerk, who granted his wish to be elected on 6th June 2013. We held our election on 6th June 2013. We were three candidates. The Jubilee side, in as much as they purport to be in order, presented two candidates for the chair of PAC committee, the CORD side had one candidate. As such I won the election and not the selection! *(Applause)* That is why I seek your protection, Mr. Speaker, that I may have ample time to....*(Interruption)*

Hon. Deputy Speaker: You are protected

Hon. Peter Imwatok: For the interest of the County of Nairobi and the County Assembly of Nairobi, I know may be I am not the likeliest candidate for this seat because I can see from the leadership across the board. It is a conspiracy of the highest standard, simply because of*(Interruption)* Mr. Speaker protect me to contribute to the motion. I have eight minutes remaining.....*(Interruption)*

Hon. Deputy Speaker: Order granted. Hon. Member

Hon. Member: Thank you Mr. Speaker is it in order for the Hon. Member, one... *(Interruption)* Protect me Mr. Speaker sir. We have a chair in this house...*(Interruption)*

Hon. Deputy Speaker: Order Hon. Member! You rose on a point of order?

Hon. Member for Pangani Ward (Mr. Peter Wahinya Njau): Yes I am rising on a point of order number 235 the one we are discussing. Is it in order for the Hon. Member to discuss the election of

chairperson in another committee whereas we are discussing the adoption of a report of another committee? Is it in order Mr. Speaker sir?

Hon. Deputy Speaker: Thank you. Hon. Member proceed

Hon. Peter Imwatok: Mr. Speaker, I want to say categorically that my understanding of the Bill of Rights is that when an election has been conducted by secret ballot it is an election accepted by the Constitution. I therefore ask the Members to read the Standing Orders before they stand, so as to understand which Standing Order number they are standing for.

I want to say this Nairobi County is a cosmopolitan County and I understand when anybody vies for a seat he has the right to sell his manifesto to the electorate and therefore on 6th of June I sold my manifesto to the 13 members of the PAC committee, they understood and listened carefully and voted for me seven votes against five for Mr. Mbatia and one for Mr. Jackson. Therefore, I became the winner.

I want to say that, if this House is really the House of rules and procedure, then it calls for sobriety in everything we do. I understand that even now, as we are seated here, there is a lot of communications going on with regard to coaching members out of the House. When I stood for the first time, when you proposed the motion, we stood as five Members from the other side. Therefore this motion shouldn't even proceed to this level because it was improperly brought to the House and ill-advised by the Clerk.....*(Interruption)*

Hon. Deputy Speaker: Thank you Hon. Member. We will proceed with the debate on the motion. Hon. Members may be we will take one from each side and then we close.

Hon. Maurice Imwatok: Mr. Speaker I still have my five minutes.....*(Interruption)*

Hon. Member: Thank you Mr. Speaker.....*(Interruption)*

Hon. Deputy Speaker: Order Oluoch! Please Nyang'wara can you sit down? Proceed Hon. Member

Hon. Member: And kindly Members can we learn to respect the Chair? Thank you, Speaker, for your protection. I rise to support the motion and the amendment by the Procedure and Rules Committee. When it comes to the issue of over-sight, or the Public Accounts Committee and the Public Investment Committee, it will be in good taste if our brothers agreed, we usually agree in the corridors, but I can see there is so much disagreement when we come to the Assembly.

In as much as we agree in the corridors that we work as a team, we have to agree on this as well. The reality of the matter is that our brothers from the CORD side are the majority and so it will be in good faith if the over-sight role was to be given to the minority. You know the law, we don't know whatever might happen tomorrow. A member.....*(Interruption)* I am talking about the future....*(Interruption)*

Hon. Deputy Speaker: Order Member! Can you have your seat! I am on the floor. Hon. Members, we are all in agreement that this House is a House of justice not only rules and procedures. It is upon my own wisdom, Hon. Members, guided by the Constitution that I am not going to put the question. The reason being, the motion in question, as it appears on the order paper, was supposed to be moved by the Leader of Majority and I communicated earlier to this House that it ought to have been moved by the chair of the Rules and Procedure Committee. Hon. Members it can only be by way of leave that the Chairman of the

Rules and Procedures Committee can appoint someone to act on his behalf and it must appear on the order paper. For that reason I am suspending the motion to tomorrow 2.30pm, same time. Thank you very much.

Hon. Member for Mugumu-Ini Ward (Mr. Alex Ouda Otieno): Thank you, Mr. Speaker

(The minority Members left the House in protest and the House business proceeded with the Majority party members alone.) (Loud consultations)

Hon. Deputy Speaker: Order Hon. Members!

MOTION- LANG'ATA CEMETERY

Hon. Alex Otieno: I am here to move motion number nine and I read. “ **WHEREAS** Lang'ata cemetery was established in 1956 in Nairobi measuring 117 acres under the management of the defunct City Council of Nairobi and **AWARE** that the cemetery was reported full by the year 1996, thus necessitating of recycling of old graves and burying of the bodies in three layers henceforth noting that the cemetery now belongs to the Nairobi County and alternative burial site needs to be identified as a matter of urgency, **AWARE** that between the years 2005 and 2007 the funds allocated by the Government for the purpose were misappropriated and somebody charged in court, **CONCERNED** that lack of a public health cemetery poses a health hazard to the residents of Nairobi City County, this Assembly urges the County Government to declare that the Lang'ata cemetery is full and urgently identify a suitable new cemetery ground. I call upon Hon. Peter Imwatok to second. Thank you

Hon. Peter Imwatok: Mr. Speaker, Indeed I am honoured to support the motion of the Lang'ata cemetery because our relative.....*(Interruption)*

Hon. Deputy Speaker: Order Hon. Member, Imwatok! Can the mover of the motion rise again? Explain to the Hon. Members the technical areas

Hon. Alex Otieno: Thank you Mr. Speaker, as you are all aware, Lang'ata cemetery caters for the cross-section of the population of the entire Nairobi County and since you have been told and you are aware that the cemetery was reported full in the year 1996 necessitating the recycling of the burial site, and if you can remember, for those who were here in the last Nairobi City Council, one of our members was buried by the road side. This calls for urgent identification of a new site, so that we can give our departed brothers and sisters a comfortable resting place as it is always referred to as 'last respect'. So with that I call upon Hon. Peter, to support the motion.

Hon. Peter Imwatok: Mr. Speaker, I rise again, to support the motion of Lang'ata cemetery. As I said before, as a native born of Nairobi and as a Christian, I understand we have three weddings in life; one of the weddings is when you are born and friends are invited to welcome you into the earth, the second wedding you have is when you get married and the third wedding which is a must and you must invite people is death. We normally say 'rest in peace'.

I do agree with the mover of the motion because Lang'ata cemetery, since I was born has been a place heaped by the remains of the dead. Our departed friends and relatives are not at peace. As he said, you need to have space in life and you have to have space in death as well and that is why we as native Africans we try our best to transport our dead upcountry where we have enough space to bury them. Mr. Speaker, I beg to support the motion. Thank you

Hon. Deputy Speaker: Hon. Members I have just been distracted by the Hon. Atenya, who has divided my attention. Now, Members I wish to propose the question on motion number nine. Thank you

Hon. Maurice Akuk: Thank you Mr. Speaker, I will be very brief this time. I just want to remind the Member who has just moved this motion that being a member of the Budget Committee, I do not want to pre-empt what is in the Budget, but during the discussions within this committee he must have come across an item or vote referring to the same. The County Government is working on this and that is why I ask you, Mr. Speaker sir, to help us with such motions. When we do things like this we end up with a motion that could have been deliberated on at the House Business Committee meetings because at that point you would have actually realized that this particular motion, the Hon. Member from Mugumo-Ini is talking about, has already been catered for. So it beats logic to me for us to debate this particular motion, if it is something that has been catered for, Hon. Member. Thank you

Hon. Manoah Mboku: Thank you Mr. Speaker, I rise to support this motion because of the following reasons: The Lang'ata cemetery is outdated. It is full to capacity. Last time, as the Member has just noted, we had a Hon. Member's remains being buried by the roadside. It was so embarrassing to members who accompanied the body. In the last allocation, some money was given to purchase a new cemetery land but it was misappropriated.

It is my humble submission that this motion be considered especially at this time where many people in Nairobi, especially the majority of our Members on the minority side who walked out of the House, have nowhere to bury their dead because they have to bury them in the city. Some of us honour our traditions and transport our dead for burial upcountry and we sympathize with our Members who are buried in the city now that there is no space for them to bury their dead.

We pray that this County Government quickens this matter to have a new cemetery purchased and also I would like to suggest that the Department of Public Health Services be fully involved because the allocation to purchase this particular cemetery space has been budgeted for under the Department of Public Health Services. I therefore support this motion, Mr. Speaker. Thank you.

Hon. Deputy Speaker: Thank you very much. Hon. Member

Hon. Moses Ogeto: Thank Mr. Speaker sir, for giving me this opportunity. The Hon. Manoah you understand that even as we are being transported for burial in the villages, we also have homes and houses here in Nairobi because not all of us were born in the villages. I beg to support the motion, order number nine. There should have been also consideration for the period within which the new site will be purchased because since 1996 there have been plans to have a new site.

We should also know how long the new site will last before becoming full again. We should be able to say we will bury our loved ones at the site for this period of time. This is because even the new site for burial will also get full one day. So, Hon. Alex, you should also provide the period of time and the maximum number of persons who can be buried at the new site.

I also support the motion with the understanding that, even some of the 'chokoras' who die remain in mortuaries for up to one year. Let the cemetery be made like a funeral home with beautiful flower gardens so that it is not just identified with the dead but the living because we refer to the departed as 'those whom God loved more than we loved them'. I support the motion because it is a health hazard, as

Hon. Alex has said, to bury many people at the same place in layers. We should also clarify in how many layers should people be buried at the new site. With these I support the motion. Thank you.

Hon. Member: Thank you, Mr. Speaker sir and my fellow Hon. Members. I support the motion because in 1996 the cemetery was declared full. It means that those people who declared it full must have had concrete reasons to say so. They proposed for an alternative site for which funds allocated were misappropriated. It is imperative that we support this motion although what was supposed to be done is being done. There is consideration for the new site in the budget allocation. We hope the site will be purchased soon. Thank you.

Hon. Member for Mukuru Kwa Reuben Ward (Mr. Elkana Mauti): Thank you Mr. Speaker, I am supporting the motion...*(Interruption)*

Hon. Deputy Speaker: Hon. Member can you give some decorum to the House by removing the tooth pick from your mouth?

Hon. Elkana Mauti: Thank you for that correction, I am supporting the motion, but I have some few questions which we should be asking ourselves: On what was the money set aside misappropriated? Secondly if we are going to look for a new site are we also considering other ways and technologies for disposal of the dead, for instance cremation? This is because as a country we are supposed to advance technologically to new levels of doing things. I urge Members to support this motion because this issue is a health problem. The committee concerned, that is the Public Health Committee, should find out if those people who misused the funds were charged in court....*(Interruption)*

Hon. Deputy Speaker: Order Member! The motion is about whether we need to purchase land for the cemetery. It is not about investigation into who misappropriated funds.

Hon. Elkana Mauti: I am not talking about the purchasing of land. I am saying we should not be leaving things just simply because some people have been taken to court and then the next time we are at it again setting aside money for the same purpose. This is why I said let us look for alternative methods of disposing the dead other than purchase of land. I was asking the committee concerned to go in, deeper and have some details. Because we are going to fear setting up any budgets for land purchase. May be the money could again be misappropriated. So let us look for other alternatives. Thanks

Hon. Member for Parklands Ward (Mr. Jeffer Kassam): Thank you Mr. Speaker, I support the motion. As you have said, it was about 57years ago when this land was set aside. We are out of time because our population in Nairobi today is 4 million as opposed to that particular time when it had not even reached 300,000 people. I urge the Members to support this motion and ask the Executive to implement it urgently. We should also ensure they have done that. Thank you, Mr. Speaker.

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Mr. Speaker, I beg to support this motion and if you have gone to Lang'ata cemetery you will notice that the cemetery is in a very pathetic state. In fact it beats the logic of giving our people a decent resting place. So, I would like this House to pass this motion so that we can give our people who have passed away a decent send-off. Secondly, I would also like this House to be told what happened to the land which was bought with the appropriation money, because definitely land was bought somewhere. Where is this land and what happened to this land? If we....*(Interruption)*

Hon. Deputy Speaker: Point of information Hon. Member, the land is there. It is only that it is not suitable for the intended function. Thank you

Hon. Maxwell Ochar: Thank you, Mr. Speaker sir, for giving me that answer. As I said we want to know of what benefit the land can be to the County Government. Thank you, Mr. Speaker sir.

Hon. Deputy Speaker: Hon. Millicent

Hon. Elizabeth Manyala: Mr. Speaker I rise to support this motion. However my name is Elizabeth Manyala not Millicent. It is very pathetic actually when we want to give our beloved ones a decent send-off. If you went to Lang'ata, you would see the current state of the cemetery. You will really be taken aback and actually being a Christian, if Jesus Christ comes back today and we know in the resurrection prophecy all graves will open, it will be chaotic. Now, if the graves have bodies put in layers, I do not know what it will be like, the confusion that will be experienced, before we are changed in the twinkling of an eye at the last trumpet. But having said that, this motion has urgency, that we move with speed and identify an alternative land and execute this worthy course. Thank you.

Hon. Deputy Speaker: Hon. Chief Whip. That makes the last.

Hon. Chief Whip of Majority (Mr. David Mberia): Yes Mr. Speaker, I would like to support the motion and I would like to inform Hon. Akuk that this motion is properly before the House because I remember before we adjourned *sine die*, notice of this motion had been given. Secondly, when you rest in peace you rest alone. In Lang'ata cemetery you were to be buried ten feet under, but it reduced to eight feet under and these days they are digging graves of five feet. This means that one grave has a maximum of three bodies. I am privileged to have served in former councils. Money was allocated to buy this cemetery land but there was some confusion and allegations that the experts were not involved. I would advise this House that this time round, let us involve the experts so that we can buy land which is suitable to rest our people. So, I support the motion, Mr. Speaker.

Hon. Deputy Speaker: Thank you Hon. Member. May the mover of the motion reply?

Hon. Alex Otieno: Thank you, Mr. Speaker. May I take this opportunity to thank all the Members who have contributed towards this motion. As you are all aware the cemetery will cater for the Nairobi County. I am really shocked by the action of the other Members, to have left the House while we were discussing such an important motion that caters for all of us not a particular people or persons. So, to the Members who have contributed positively, I take this opportunity to thank you for your support in seeing to it that our County Nairobi is given an alternative burial site and I would like to urge the Governor and his team to act fast so that we can have a new site. If need be, even if it is forming an ad-hoc committee, I wish that it will be done urgently. We can have the ad-hoc committee constituted to act on the issue urgently. Thank you

Hon. Deputy Speaker: Hon. Members, allow me now to put the question; may as many as are of the same opinion say 'aye' and may as many as are of the contrary opinion say 'nay'. The 'ayes' have it. Thank you

(The motion on Lang'ata cemetery was passed)

ADJOURNMENT

Hon. Deputy Speaker: Now, Hon. Members, on the order paper's back page, you can see the notice. The notice was meant to guide the debate. I am making a request the Members of the House Business Committee to meet at the Committee room for some business of the day. That marks the end of our Assembly for today. The House adjourns to tomorrow 2.30pm same time. Thank you.

(The House rose at 5.49 pm)