



REPUBLIC OF KENYA

NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – First Session

Thursday 2nd May, 2013

The House met at 2.30pm

(Mr Speaker in the Chair)

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Speaker (Mr. Alex Sanaika Ole Magelo): Hon members I now request the Hon. Atinya to get hold of the leader of majority and Hon. Warutere to get hold of the leader of the minority.

NOTICE OF MOTION

NOTICE – MOTION ON APPOINTMENT OF MEMBERS TO THE COMMITTEE ON APPOINTMENTS

Leader of the Majority (Mr. Elias Otieno): Thank you Mr. Speaker sir, first, I take this opportunity to apologize to the house for coming late. I hope Mr. Speaker sir you will take my apologies. Motion no.8: pursuant to provision of the Interim Orders Standing Order no. 185, this Assembly approves the appointment of the following members to the Committee on Appointments;

1. Hon Alex ole Magelo MCA Speaker of the County Assembly, Chairperson,
2. Hon Elias Otieno MCA Leader of Majority Party,
3. Hon Abdi I Hassan MCA Leader of Minority Party.

I ask my counterpart, Hon. Abdi Hassan to second the motion.

Leader of the Minority (Mr. Abdi Hassan): Thank you Mr. Speaker sir, first of all let me apologize for coming late. My stomach cannot withstand hunger, that's why I was late. I want to second the motion and I urge this House to approve it. Thank you, sir.

Hon. Speaker: Hon Members, just a minute... (*Consultations*).. Hon members, Committee on Appointments; Standing Order number 185(1) states that “*there shall be a select committee to be designated a Committee on Appointments, to be appointed by the County Assembly consisting of the Speaker as the chairperson, the Leader of the majority party, Leader of the minority party and not more than three other members nominated by the County Assembly Business Committee on the basis of proportional party membership in the County Assembly.*” Hon members I now propose the question. Hon Chairman of the Chairmen

The Chairman of Committee of the Whole House (Mr. Kennedy Ng'ondi): Mr. Speaker, thank you this afternoon for allowing me to contribute on the motion. As it appears on the order paper, it is evident that the list of names runs from number one to nine, so there is a dire need that we come up with the other names of the rest of the members. Based on the standing order, about the proportionality, I rise to propose that, of the remaining six members, the side of the majority takes four slots and the minority two slots.

Hon. Speaker: The Hon Nyang'wara Nyang'wara

Hon. Member for Viwandani Ward (Mr. Samwel Nyang'wara): I stand to oppose this motion. We are the Committee which was supposed to nominate the names of the other three, I don't know whether it is this Committee which has not done its job yet we are being asked to pass the names as they are. I see this as a way..... (*Interruption*)

Hon. Speaker: Hon Chief Whip

Hon. Chief Whip of the Majority (Mr. David Mberia): I stand on a point of order number 185. As a member of the House Business Committee, Mr. Speaker, we sat on Tuesday evening and agreed that the majority Whip and minority Whip would forward the names to the Clerk to be put on the order paper for today's business. We agreed on the membership and as the majority Whip, I forwarded my names to the Clerk. With the knowledge that the other side has not forwarded their names, we would like to know from the Chair how to move this. Thank you.

Hon. Speaker: Mr. Nyang'wara

Hon. Nyang'wara: Mr. Speaker, it is of paramount importance that this Committee is in place because we are behind schedule. This is a very important Committee that is going to vet the Executive and the Governor is set to read out the names of the proposed members of the executive soon. So, as a House, we don't want to just pass names when the list is not complete. We actually want to know why we should pass these names as they are and not submit all the names of the Hon Members. This House has got Hon Members who are capable of fitting in this Committee. Why should we just pass three names?

(*Loud Consultations*)

Hon. Speaker: Order Members! Pursuant to Section 185 (2), *“the Committee on Appointments shall be appointed within seven days on assembly of a new County Assembly and shall serve for a period of three years and that appointment therefore shall serve for the remainder of the term of the County Assembly.”* Hon. Members, I would like to let you know at this particular moment that this is as a result of an agreement of the leadership of both parties to enable both parties to come to a proper level playing ground as per the regulations and the Standing Orders. Thank you, Members. Hon. Warutere

Hon. Member for Roysambu Ward (Mr. Peter Warutere): Thank you Mr. Speaker for allowing me to contribute to this very important motion on appointment of the members of the Committee on Appointments. Allow me to congratulate both Chairs for particularly sitting down and seeing a sense of purpose to allow consensus to be built on this particular issue that is in contention.

It is my humble submission to this House, and let me be allowed to go to the records, that we are here to agree to get the way forward so that we can do what we were brought here to do. Two things: we are here to serve the people of Nairobi and to give them the best in terms of service. We will be held accountable on matters of service delivery and not on issues of what we stand for in terms of division. Therefore, I stand to second this motion; let us agree to allow the names to pass as they are and then we can seek consensus as and when is appropriate. Allow me again to correct the Member who stood here and lied to this House that we had a consensus on Tuesday. We have not reached a consensus and if we indeed had had that consensus, trust me, the names would be on the floor of the House. With that I rest my case.

Hon. Speaker: Hon. Members, I have good news for you because as we said we are in the process of learning. The job is now easy on the two leaders of the Majority and the Minority because, when you look at the Standing Orders, number 185(4) says *“the quorum of the Committee on Appointments shall be one half of the Members of the Committee, but the Speaker shall not be counted for the purpose of quorum and shall not vote”*. I think what we are talking about here, rests. Hon Members, my ruling is; you now go back, proportionally appoint Members without counting the Speaker who will only Chair the Committee. You go proportional, which means the CORD will have more than Jubilee (*Interruptions*) Yah! Even if it is by one, it is more. So, it is clear as a matter of fact because we will not transact business on Tuesday. I now ask the two leaders to communicate with their Chief Whips and bring the names of their members to the Clerk. Thank you. Hon. Leader of Majority

Hon. Leader of Majority: Thank you Mr. Speaker I think we had a discussion, I, my counterpart, the two Chief Whips and the Chairman of all Chairmen. We agreed. I don't know the reason why we don't trust each other. We agreed we were going to present this list as we continue with our consultations. Let us not just argue for the sake of arguments. Let us be sober when we are handling such issues. Thank you Mr. Speaker

Hon. Speaker: Hon. Wahinya

Hon. Member for Ngando Ward (Mr. Peter Wahinya Kimuhu): Thank you very much Mr. Speaker, my submission is that the Standing Orders are very clear that the political side of CORD will certainly be

one person up in whatever committee we form and I don't think there is any quarrel with that particular matter because the Standing Order does allow them that privilege. But what is bothering us or bothering me right now is that there are situations which are coming to the fore as we speak, where the CORD family of members will end up with two persons ahead of Jubilee. If you look at the situation, for example if I take you briefly to Standing Order number 152 where we said that the House Business Committee will have 19 Members, 19 Members if you minus the Speaker, the Leader of Majority and the leader of Minority we will end up with 16 Members. 16 Members are the ones who will be drawn from the ordinary membership. If that happens then we will end up with a scenario of an even number that now delivers either eight-eight, which will be acceptable to us or if they have to be one up then it will be nine-seven. So these scenarios, really, we need to work..... (*Interruption*)

Hon. Speaker: Hon. Member order! Hon. Wahinya we want to let you know that, that was amended and the membership has gone up to 19. Proceed.

Hon. Member for Ngando Ward (Mr. Wahinya Kimuhu): Thank you very much Mr. Speaker, so in reality, basically if we are going to end up with a....if the amendments have been made then Mr. Speaker I was not aware. And in such case in all the Committees that we form, if CORD family ends up with one extra, and I hope I don't get a beating from my family, then in my opinion we shall be treading carefully and we shall be within the law. But then again, I wish to make an appeal also because I do remember we have had a lot of conversations with Mr. Otieno, the Leader of the Majority. I stand corrected if he wishes to correct me. He had at some point actually made comments to the effect that if I stand for the seat of Chairman of Chairmen he would mobilize his soldiers, that is the Hon. Members to make sure that Jubilee will never get any chairmanship. You know, because every time we go into a campaign, chances are that we shall loose. I would like to ask him kindly... (*interruption*) I would like to ask him very kindly...(*Interruption*) let me finish....(*interruption*)..let me finish... (*interruption*)

Hon. Speaker: Order Members! Order Hon. Wahinya! Can we dispense with the motion at hand? And from the way I look at it, it is agreed that this holds until you complete your business. I therefore call upon the mover of the motion to reply. Order Members!

Leader of Majority: Thank you Mr. Speaker sir, for protecting the Leader of Majority, somebody who was elected by the people not the person who is always losing. In my reply to this motion, I take this opportunity for the first time, to thank the Leader of Minority and his Chief Whip for accepting what we had agreed upon, for the first time in history. I also thank all the Members of this House on this important afternoon for their debate. So I am looking forward to working with you people.

As for Mr. Wahinya, Mr. Speaker, remind Members that they must be always properly dressed when they are in the House. I don't think the way Hon. Wahinya wears his tie conforms to the dignity of this House. So when he is coming to criticize the Leader of the Majority he must first of all be properly dressed. I take this opportunity to wish all members a good weekend because I know they will not be in your Assembly tomorrow, Mr. Speaker sir. Thank you very much.

Hon. Speaker: Hon. Members I now put the question pursuant to the Standing Orders 185. As many as are of that opinion say 'aye'. As many as are of the contrary opinion say 'no'. The 'ayes' have it.

(Applause followed by loud consultations)

(The motion was carried forward)

Hon. Speaker: Hon. Members order! Order Chief Whip!

ADJOURNMENT

Hon. Speaker: As we come to the close of business it is important to note the communication from the Chair in regard to the Interim Orders on Standing Order no. 185 of the Assembly on appointment of members of the Committee on Appointments. And once again I read to you, the Speaker is above this and does not count. He does not also matter when it comes to a quorum. So you move ahead proportionally, hand over the names to the Clerk.

Secondly, the Assembly business Committee will meet on Monday, May 6, 2013 at 10.30 am to form the sectoral committees. The Chief Whips, therefore, have a tough job over the weekend to have all the names. And you remember this, we said each Committee will have 13 members so don't go there again and start arguments. It is 13 members and it was agreed within the divide of both political parties. Then at 2.30pm the selection Committee will meet at the direction of the County Assembly Clerk. Thank you.

(The House rose at 3.15 pm)