



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Second Session

Thursday, 13th November, 2014

The House met at 2.30 p.m.

(Hon. Temporary Deputy Speaker in the Chair)

PRAYERS

Hon. Temporary Deputy Speaker (Mr. Samuel Nyangwara): We don't have a quorum I therefore order the Sergeant-At-Arm to ring the bell for 10 minutes.

(Bell ringing)

Hon. Temporary Deputy Speaker: Hon. Members we still do not have a quorum and the 10 minutes have elapsed. The Consequences are if you don't raise the quorum, there will be no sittings this week. So you will be less by one sitting. So I order the Sergeant-At-Arm to ring the bell for another five minutes.

(Bell ringing)

Hon. Temporary Deputy Speaker: Okay! Sergeant-At-Arm you can stop ringing the bell, I think we have a quorum.

STATEMENTS

Hon. Temporary Deputy Speaker: Hon. Pius Mbono. Yes Hon. Thuo

Member for Karura Ward (Hon. Stephen Thuo): Thank you Hon. Speaker. I rise to request for an extension for the Ad-hoc Committee to table its report on alleged skewed allocation of projects in the department of Roads, Transport and Public works. The Ad-hoc Committee is investigating the alleged skewed allocation of projects in the department of Roads, Transport and Public works. The Committee is in the process of concluding its report on the said matter in readiness for tabling in the Assembly. However, deadline for the tabling of the report is approaching. It is worth noting that the Assembly was on recess last week and as a result, the sittings of the Committee were interrupted and the documents from the County Executive have also been slow in coming.

On behalf of the Committee I would like to request for additional time of three weeks to enable the Committee to effectively investigate and report on the afore-mentioned matter before this Assembly. Your approval will be highly appreciated. Mr. Speaker, you must appreciate that the 21 days will also include Sundays and Saturdays as stated in the request document and this will consume our time. We need to write letters to the Executive, and there are timelines that are set so for our Committee to be able to do a thorough investigation and be able to furnish this House with a credible report. We need an extension of three weeks for a thorough job. Thank you.

Hon. Temporary Deputy Speaker: So ordered. Hon. Pius Mbono? Who knows the where about of Hon. Pius Mbono? He had a statement he wanted to deliver to the floor of this House and it was allocated time--- Order! Let me finish first then I will give you time. He was allocated time to present the same statement on the floor of this House. Hon. Minority Leader, it seems you must be aware where Pius Mbono is. Hon. Deputy Minority Leader! He knows the statement, we cannot be playing to the galleries.

When you present a report to this floor then you must be there to present the same report and if you are not there, then I think I will reprimand the same person from giving statements on the floor of this House but I understand giving statements on the floor of this House is --- Because the Deputy Minority has excused on the same, then we will give him another time to present the report. Thank you. What's wrong Hon. Mutiso? you can approach the mic.

Member for Ngei Ward (Hon. Daniel Mutiso): Thank you Mr. Speaker sir. Before we continue, I want to interrupt a bit because we all know this is the House of rules and procedure and I wanted to know whether our Minority Chief Whip, Is properly dressed.

Hon. Temporary Deputy Speaker: Can you approach the Speaker Hon. --- Minority Chief Whip, are you properly dressed? We are on statement time Hon. Deputy Minority. Hon. Ngaruiya Chege. Can you approach the chair?

Member for Kahawa West (Hon Patrick Ngaruiya): Thank you Mr. Speaker

Hon. Temporary Deputy Speaker: Order! The Chairperson of Sectorial Committee on Transport and Public Works, there is a statement which you were supposed to give for Hon. Ngaruiya Chege concerning the extension of Kahawa West market. Chairman Sectorial Committee on Planning and Housing, Trade and Tourism and Cooperatives

Hon. Patrick Ngaruiya: Thank you Mr. Speaker. I want to remind the Chairperson because the statement I had requested is supposed to be tackled by two Committees. The first Committee is Planning Committee and the other one is Trade and Cooperatives Committee and as we can see, the Chairperson or even the Deputy Chairperson of Planning and Housing Committee is not present. This is an issue we have discussed - the issue of absenteeism - for quite some time and I think it has reached a point whereby the Chair should act because we are going to lag behind, because if statements or answers are not brought on time then it means we will keep on mark-timing. Thank you.

Hon. Temporary Deputy Speaker: Is the Chairman, Trade, Tourism and Housing in? I understand Members you know what it is when you are reprimanded. Are you speaking on behalf of the Chair? Yes, approach the mic.

Nominated Member for Kileleshwa Ward (Hon. Jacqueline Nyangala): Thank you Mr. Speaker. On the statement for Hon. Ngaruiya, yesterday we went for a visit with the Hon. Member and we will come with a report next week Mr. Speaker.

Hon. Temporary Deputy Speaker: So it's ordered you come with that report on Tuesday 2.30pm. Thank you.

Hon. Jacqueline Nyangala: Yes.

Hon. Temporary Deputy Speaker: Hon. Chairperson for Transport and Public Works. There is a statement you are supposed to give for Hon. Mwangi. Hon. Pius Mbono

Hon. Member for Zimmerman Ward (Pius Mbono): Thank you Mr. Speaker sir.

Hon. Temporary Deputy Speaker: I want to inform you...It is like you are not aware. It is regarding the repair of high mast lights in Zimmerman Ward.

Hon. Pius Mbono: Yes. It is what I am answering. We wrote, or our Clerk wrote, to the executive side but unfortunately we have not yet received response of which I am requesting your honor to give us just one week. We will reply within one week because yesterday we had a meeting with the executive. They told us that they are going to get us that report early next week. So, kindly abide with us. Thank you.

Hon. Temporary Deputy Speaker: Early next week? What do you mean by early next week?

Hon. Pius Mbono: The response for the request. I am requesting to get the response in one week's time. Early next week is when we will get the report from the executive, then we will deliver the same in the very---

Hon. Temporary Deputy Speaker: Early next week. I think it should be a Monday and Tuesday. Then on Thursday, I think you should be in a position to deliver that report. Is that okay?

Hon. Pius Mbono: On Thursday.

Hon. Temporary Deputy Speaker: On Thursday 2:30PM. Thank you.

Hon. Pius Mbono: Thank you sir.

Hon. Temporary Deputy Speaker: I must be through with the statements first. If you are on Point of Order, you must be on a Point of Order on the same statement. Order Hon. Member for Umoja 1. Can I

have a statement from the Chairman of Sectoral Committee on Transport and Public Works concerning the congestion of matatus within the CBD, from Hon. Samuel K. Mwangi?

Hon. Member for Pipeline Ward (Hon. Samuel K. Mwangi): Thanks once more Mr. Speaker sir. The same applies because there were several requests that were made within the previous days. So, we are requesting for a week. All will get a proper reply by Thursday next week sir in regard to the sector of transport.

Hon. Temporary Deputy Speaker: It is okay. So ordered, next week on Thursday 2:30PM.

Hon. Samuel Mwangi: Thank you sir.

Hon. Temporary Deputy Speaker: Hon. Member for Woodley, can you approach the speaker. You need to be advised. Approach the speaker first. Order! Approach the speaker first.

Hon. Member for Woodley (Hon. David Kairu): Where? There?

Hon. Temporary Deputy Speaker: Yes.

Hon David Kairu: I want to be advised by the house.

Hon. Temporary Deputy Speaker: You want the house to advise you?

Hon. David Kairu: Yes.

Hon. Temporary Deputy Speaker: It is concerning what?

Hon. David Kairu: Yes. Thank you very much Mr. Speaker sir. I have a concern and my concern is like this: There is a ruling that was made here on Wednesday, on Tuesday---

Hon. Temporary Deputy Speaker: Order Hon. Member for Woodley. With due respect, I think I have heard you saying a ruling was made. You cannot challenge a ruling.

Hon. David Kairu: Let me explain then.

Hon. Temporary Deputy Speaker: Then you have to approach the office of the Speaker.

Hon. David Kairu: Let me say what I was saying so that you hear---

Hon. Temporary Deputy Speaker: I have heard you---

Hon. David Kairu: No. You don't understand what I was saying.

Hon. Temporary Deputy Speaker: I don't understand.

Hon. David Kairu: So, what I was saying is this. There was a ruling that was made on Tuesday.

Hon. Temporary Deputy Speaker: Order Hon. Njoroge!

Hon. David Kairu: There was a ruling that was made here on Tuesday.

Hon. Temporary Deputy Speaker: Order! I order you out of this house. You cannot keep on speaking when I am on my feet.

Hon. David Kairu: I am not here because of you!

Hon. Temporary Deputy Speaker: I am on feet!

Hon. David Kairu: You have to hear me.

Hon. Temporary Deputy Speaker: Order! Order Hon. Njoroge! Hon. Njoroge Kairu, order!

Hon. David Kairu: I am here by right.

Hon. Temporary Deputy Speaker: Take your seat. You cannot take this house for granted. Which standing order are you standing on? Order! Sergeant-at-arm, I have ordered him to get out of this house for the rest of his day. I have ordered Njoroge Kairu out of this house for the rest of this day. Order! Sergeant-at-arm! And because he has insisted, and shouting while walking out, I have suspended him for the next 3 days. That is today, Tuesday and Wednesday, and it so stands. Hon. Members!

(Loud consultations)

Hon. Temporary Deputy Speaker: Next order. On which standing order? Which standing order? 80? On personal statement, you wait till that time. Personal statements will wait until such a time, then you will give a personal statement. Next order, Clerk.

MOTION

Hon. Temporary Deputy Speaker: Hon. David Mberia. It is motion time and the person--- Order! Permission not granted. Hon. Mberia, can you go on with the motion? I know what you want and you will get it. I said permission not granted. Hon. Kagiri, what is the point of order?

Hon. Member for Pipeline Ward (Hon. Samuel Kagiri): Mr. Speaker, he can go on.

Hon. Member for Eastleigh North Ward (Hon. Osman Adow): I am standing on a point of order---

Hon. Temporary Deputy Speaker: I have not given you permission.

Hon. Osman Adow: We have no quorum in the house.

Hon. Temporary Deputy Speaker: I have not given you permission yet. You cannot be given permission by another member. Hon. Mberia.

MOTION

Hon. Member for Karen Ward (Hon. David Mberia): Thank you Mr. Speaker sir. I beg to move the following motion:

That aware that the naming of roads and streets is a traditional mode of honoring our heroes and heroines and places in Kenya, nothing that Kenyans have for years named places and roads in all towns and villages across the county in ways that bequeath honor and history, deeply concerned that this important tradition is at risk, thanks to unplanned naming of heroes with places that bear no history nor are significant to Kenyans. For instance, roads like Mogadishu road, Monrovia road, Lagos road, Kampala road amongst others. Further noting that the names have been changed before to reflect names and places with significance to Kenyans. For example, Sandler Street was renamed Koinange street, Lord Delemare avenue was renamed Kenyatta avenue amongst others.

This assembly urges the County Government to immediately review all road names with a view to changing those that carry no meaning to Nairobi residents and Kenyans at large with names of heroes and heroines and renowned places across the country. Mr. Speaker, this country has thousands of heroes and

heroines across the county. Some of us have grown to know names of key cities in Africa named after our roads. We have heroes and heroines in various categories in this country.

(Loud consultation)

Hon. Temporary Deputy Speaker: Hon. Akuk, I have noted that there is something you want to say. You allow him to finish, he is seconded, and then you stand on a point of order. I will give you that permission.

Hon. David Mberia: Mr. Speaker, I was saying, before I was interrupted, that we have heroes and heroines in various categories in this country. For example, we have heroes and heroines in sports specifically athletics, football, business, film industry amongst others. But it is strange to note that there are roads which have been named like Gaberon road which maybe will lead us to Botswana, Accra road maybe to lead us to Ghana, Daresalam road to Tanzania.

Mr. Speaker, we have a road named after Lusaka in Zambia and another road named after Kaunda who was the former president of Zambia. We have a road named Daresalam, another named Dodoma road, both from Tanzania, and another road named Nyerere, a former president of Tanzania. What I am saying is that we are not renaming roads which have already been named after our heroes in this country. We are renaming roads which have no significance. For example, we can't rename a road like Luthuli, we cannot rename a road like Kaunda or Nyerere because they are African heroes. We have no road named even after Mandela who is an icon in the world.

(Loud consultation)

Hon. Temporary Deputy Speaker: Order Hon. Members!

Hon. David Mberia: Let me call the Hon---

Hon. Temporary Deputy Speaker: Hon. Abdi Sosso, can you consult in low tones? The Hon. Member is on the floor.

Hon. David Mberia: Mr. Speaker, let us respect our heroes and heroines across the board. Whether heroes who fought for the independence of this country or heroines, former or current. Whether in sports, in athletics, let us rename roads which have no significance to Kenyans at large. Let me call upon Hon. Wahinya to come and second the motion, Mr. Speaker.

Hon. Peter Wahinya: Thank you very much, Mr. Speaker. I would like to register my support for this particular Motion which has been read correctly by the Chief Whip. So, without really adding so much because he has said almost everything that needed to be said. I think it is in order that we reverse the trend of naming these roads in our country after heroes who are found in countries other than our own. We have named very many roads in the past from the days of independence to the present day. Mr. Speaker, so many roads have already been renamed thanks to those who found it necessary to do that.

However, we still have very many roads that are still bearing these names that come from afar. It is very unlikely that you go to another country like South Africa for example and find a road called Samuel Nyangwara. It is very unlikely. The names in South Africa I can assure you, there are no roads called after you. This is because they honor their own heroes and in that respect I find it necessary that we honor our own heroes likewise. Mr. Speaker, there was a recent national change to one of our holidays.

It was recently renamed from Kenyatta day and it is being referred to as heroes' days. Mr. Speaker that in itself should be succeeded by removing all the names of heroes who live outside our country. So, without adding any more than that, I request my fellow colleagues to refrain from even contributing and perhaps allow you to put the question so that we can put this matter to rest and deal with other matters. Order 80, people are really waiting for it. I know Akuk has very pressing matters. So, Mr. Speaker, thank you very much for according me that chance.

(The question is put)

Hon. Maurice Akuk: Point of Order.

Hon. Temporary Deputy Speaker: What point of order, Hon. Akuk?

MOTION OF ADJOURNMENT

Hon. Maurice Akuk: Mr. Speaker, thank you for giving me the opportunity. I rise here on Point of Order number 30 which I had already indicated to the office of the Speaker earlier as required. I indicated 2 hours before I stand before you and I believe that that should have been granted because it is only a

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notice and I do not need approval to stand here on that point of order. I kindly request that this County Assembly adjourn to debate matters of importance of this County Assembly, one of them being the mortgage that I hear is quite thorny. The other is the approval of the name of the County Assembly Clerk. Thank you.

Hon. Temporary Deputy Speaker: Hon. Ngaruiya.

Hon. Patrick Ngaruiya: Mr. Speaker, I think the Motion that is on the table has no meaning. Issues that are important to this County should be debated in this House. I believe renaming roads will not add value, what will add value to this county is bringing the name of the Clerk here so that we can either confirm him or send him home. Also, the Speaker who has also absconded, so that you can represent him. We believe that Hon. Members are supposed to be accorded the respect that they deserve and not sitting on that chair and always sending Members out.

We want you not to continue with that trend because if you continue, we will also impeach you. Mr. Speaker, this Motion is not very important. What is important is to discuss issues which concern our welfare. I believe it is very important for the Mover of this Motion to withdraw it because it has no meaning and it has no purpose. Thank you.

Hon. Temporary Deputy Speaker: Hon. Ndigirigi.

Hon. Tabitha Ndigirigi: Thank you, Mr. Speaker. Thank you, Hon. Akuk. I am standing here because of the mortgage. First of all I am coming directly from the bank where I have found that we are being used. We are 127 Members in this Assembly and 13 Members are the ones who are qualified from Jubilee and from CORD 20 qualified. What I know is that all of us are 127 beggars. We are here and we are not going to be used. Mr. Speaker, can you deal with this matter in a quick and urgent manner before it goes to court because we are not going to be used? Thank you, Mr. Speaker sir.

Hon. Temporary Deputy Speaker: That is a serious matter. I understand Hon. Akuk was on the floor of this House and I was made to understand that Hon. Akuk, you are supposed to raise a certain number to support your Motion.

(Members rise to their feet)

Hon. Temporary Deputy Speaker: Indeed, you have the requisite number and I will go ahead and put the question.

(The question is put and agreed to)

Hon. Maurice Akuk: Mr. Speaker, we are waiting for your direction especially on the matter that is here before us. I think it is much bigger than you representing that Chair and it requires the Speaker as the Chairman of the County Assembly Board to actually give us guidance. If at all we are going to take a vote on this particular matter, I believe the vote shall be that indeed we want the Constitution of Kenya followed to the latter. In this particular case, Mr. Speaker sir, you have heard from our colleagues, there are two thorny issues.

One, the name not having been procedurally approved by this County Assembly and up to now I still believe that an illegality has occurred. What illegality has occurred? It is clearly indicated in Section 13(1) of the County Governments Act, 2012. Mr. Speaker, indeed it is wrong for anyone to execute business and that particular position does require that his name is brought before this House and approved.

(Consultations between the Clerk and the Temporary Speaker)

Hon. Maurice Akuk: Mr. Speaker, I need your attention because if you allow us to continue with this debate we will continue with it. However, if you want us to wait for the Speaker we shall wait because we need to know from the Chair if this name will finally be brought to this House for approval. We are not sending anyone home and we have repeated this several times. Mr. Speaker, the media houses have been calling me enquiring about some information that I am not privy to. They are calling me because our Clerk has gone ahead and distributed some information purporting that I had requested some money for a trip abroad.

Mr. Speaker, we want the imprest book brought to this House and declared before this House why this Clerk has been receiving more when he travels abroad than as per what his position is required. We will give one clear example of his trip which we are aware of, that when he took the allowances it was to the tune of 1.4 million. Mr. Speaker, when questioned about the allowances he did indicate that he pays himself according to the National Parliament circular. Mr. Speaker sir, is he our employee or is he the National Parliament's employee? We need all this clarified. Mr. Speaker, be well informed that this position, if not approved by this particular Assembly, is null and void. It is the requirement of the Constitution and we cannot bend the Constitution.

We cannot bend the Constitution by coming up with other reasons to give to the media to give to the public to support an illegality that has occurred during our tenure. Mr. Speaker, I stand guided but all I stand for is the full adherence to the Constitution. We want to know where we stand on this matter.

We want to know, are you going to bring this name for approval and is everyone allowed to lobby? We are not saying that if you bring the name for approval we are going to bring it down. No, no one should panic, and if anything was done legally, then lay it on the table. Let it follow the process, because if it follows the process, we will be able to identify whether what is there is stated in the constitution. Because I

know you are very familiar with the constitution to sit on that Chair. It does require that any public position must be competitive and the holder competitively recruited. Was that done? No. Was there advertisement of this particular position? No. Were we manipulated? Yes.

Hon. Temporary Deputy Speaker: Order! The mover of the motion is on the floor Hon. Mutiso. You wait until he finishes.

Hon. Maurice Akuk: We will give him his time. And issues have come up that people are trying to defend these position using section 71 of the constitution. I have repeatedly reminded this house that section 71 of the County Government Act 2012 does talk about probation. Was our Clerk on probation? No, he was not on probation. He was seconded here by the Transitional Authority. Was there a time limit of his secondment? No, there was not. Was he confirmed by the board? Yes, we agreed he was confirmed by the board but did it follow the right procedure? No it never did. So what we are requesting is let us, as Nairobians, just follow the law, sit down and reason together. Follow the law so that the law does not catch up with us because of breaking it. We are requesting for this position however much you indicate that it has already been given out to be re- advertised. We are requesting that the recruitment for this position be competitive enough so that we know if we are making a choice for the right person or not. Thank you.

Hon. Temporary Deputy Speaker: Hon. Members. You know why I have allowed Hon. Maurice Akuk to speak for more than five minutes. Indeed he was the mover of this particular Motion that is why he has spoken for more than five minutes so I want to request you to limit yourself to five minutes. Hon. Mutiso, what do you have to tell the house?

Hon. Daniel Mutiso. Thank you Mr. Speaker Sir. I am standing on order number 32/1 which says, if at any time after the Chair is taken or when the County Assembly is in committee, a member may object that there is no quorum. The Speaker or the Chair person shall count the members of County Assembly or the committee as the case may be. I do not think whether we have a quorum. Thank you.

Hon. Temporary Deputy Speaker: Order. Hon. Mutiso, with due respect, the Standing Order you read out only applies when this Assembly is at a committee stage. You have quoted a wrong Standing Order. Hon. Ngaruiya.

Hon. Patrick Ngaruiya: Mr. Speaker I rise to support the Motion that we adjourn to discuss important issues affecting this Assembly. I have risen on several issues that require to be attended to immediately. One of the issue is matters to do with illegalities.

And as I said earlier is that, if we confirm illegalities in this Assembly, which is a house of rules and procedure, then it means that even the Executive arm of this government is not going to respect this Assembly. On issues to do with the Clerk, whatever was done I will continue saying the umpteenth times that it was illegal. The County Government Acts section 13 sub section 1 says the Clerk is approved by the County Assembly Service board and confirmed by this House. That was done. And we will continue even if it means boycotting important issues of this Assembly.

I also saw a time when he read the Finance Bill in this Assembly even after the Committee of Finance and Budget was very much against. He has continued on several occasions, to think that these Hon. Members do not know what they came to do here.

He cannot be coming here to lectures us on issues to do with law. We know very little of it but it is helping us, because we are the people who means all on the ground. Section 71 sub section 1 they are quoting here, it cannot apply. I have been ever here since this Assembly was opened. We were the first Members to be sworn in.

I believe this particular post has never been advertised. As *mweshimwa* has said, he was seconded and as if it is not an illegality, he has continued to withdraw allowances from the National Assembly and yet he is working for this County Assembly. He should go to jail, Mr. Speaker. Therefore it means he has never been our employee. He is still the employee of the National Assembly and that is why he is getting allowances equal to a person who is an employee of the National Assembly.

I believe if the post was advertised, we would have had several applicants who would have applied and who were qualified for the position of the Interim Clerk. If there is no evidence the process was not followed then the Clerk is not an employee of the County Assembly.

We cannot allow three Hon. Members to usurp the powers of this House. I will continue to fight until that time when we shall be given that particular opportunity so that we can employ that particular individual that is fit for this particular Assembly. Martin Luther King Junior once said that it is only when it is dark enough that we can see the stars. And it is true Hon. Members have started seeing the stars because it is too dark here and the only opportune time is now Hon. Members. Today they have absconded this Assembly, reasons best known to themselves.

Hon. Temporary Deputy Speaker: Order Hon. Member. Have I heard clearly? Then do we have strangers in the House? If Hon. Members---

Hon. Patrick Ngaruiya: Not the Hon. Members present. Mr. Speaker, because you are temporary, the Clerk.

Hon. Temporary Deputy Speaker: Order Hon. Ngaruiya. You must have respect for the Chair and if you cannot have such kind of respect am sorry. I added an extra one minute. Just keep quiet simply because you have bypassed five minutes. Next Member.

Hon. Elkana Mauti: Thank You Mr. Speaker Sir. I think it is very painful at this moment. With me, I have been complaining a lot. I think my prayers are coming to the answer because we have gone a very long journey, people have been mistreated, office power has been misused by the Clerk who is the interim and we do not know.

I was very surprised when I heard there was a tag in his office indicating the Clerk but not the interim Clerk. That is very wrong because we have not confirmed him. Up to now we do not have a Clerk. What we are after is that we want to have our own Clerk. Whether he is Ngwele, whether is who but our own Clerk whom we have approved as per the constitution.

Number two, there are some employees of this County Assembly who have been fired by the Clerk irregularly or without following the right procedure. Somebody got an accident almost three weeks ago and he was admitted in a hospital. He got an accident imagine! He was admitted in a hospital for three weeks and coming here he is fired, he is no longer a worker in this Assembly. Where are we heading? Is this a Clerk? What about if it was him who got an accident? One of the Sergeants at Arm got an accident and when he came back, up to now he is not even fit, he has been fired. He cannot work in this Assembly. That is---

Hon. Temporary Deputy Speaker: Order Hon. Mauti. With due respect do you have such kind of information.

Hon. Elkana Mauti: Yes I have.

Hon. Temporary Deputy Speaker: Can you table.

Hon. Elkana Mauti: Yes I have.

Hon. Temporary Deputy Speaker: You table it. If you cannot table...

Hon. Elkana Mauti: I can say who it was because getting an accident is physical.

Hon. Temporary Deputy Speaker: Order Hon. Mauti. If you have a letter showing that particular somebody was fired. Table.

Hon. Elkana Mauti: Give me three days and I will table it.

Hon. Temporary Deputy Speaker: Then you stop from discussing an issue which are not...

Hon. Elkana Mauti: You give three days because I have it in my office, they are there. It is not a lie. I do not work on rumors. I work on reality.

Hon. Temporary Deputy Speaker: Then we will discuss it then.

Hon. Elkana Mauti: Yes we will.

Hon. Temporary Deputy Speaker: Thank you. Go to the next step.

Hon. Elkana Mauti: We had been changing Standing Orders here which is an illegality. After changing the Standing Order, a notice should be made effecting the change in the Standing Order, but up to now there are no changes. Are we doing rubbish in this Assembly? What is the work of the Clerk if we have changed our Standing Order!

Hon. Temporary Deputy Speaker: Order Hon. Mauti. Your language is unbecoming. This is an honorable House that cannot do rubbish---

Hon. Elkana Mauti: That is what am worried about Mr. Speaker.

Hon. Temporary Deputy Speaker: Order! You must withdraw and apologize to this House.

Hon. Member for Mukuru Kwa Reuben (Mr. Elkana Mauti): Mr. Speaker it is a worry up to now I don't have an answer whether it is rubbish or not, I have said it is rubbish. I am worried.

Hon. Temporary Deputy Speaker: Order Hon. Mauti.

Hon. Elkana Mauti: I withdraw the word rubbish.

Hon. Temporary Deputy Speaker: Yah it is unparliamentary when you use such words.

Hon. Elkana Mauti: In this Assembly we have faced so many challenges, we had a car loan and we were nearly getting mortgages but when you ask for bank statements, they are not there. We want to know if this money was put in somebody's account or where through this Assembly because there is no money of this Assembly which can be moving in and out without showing the bank statements, without coming out.

We don't know whether it is somebody who has it and when you want it he just gives you. We want the bank statement for the car loans and mortgages to prove that he is doing the right job. In our Assembly we have the accountant or the finance person, but it is very worrying when we hear that when they go outside may be to Mombasa or abroad or somewhere else, we hear that he pays himself like a person who is in the National Assembly; automatically he is not our Clerk.

Hon. Temporary Deputy Speaker: Order! Hon. Mauti Order! Hon. Mauti with due respect, if you have such documents, table them.

Hon. Elkana Mauti: You give me 7 days----

Hon. Temporary Deputy Speaker: For only simple reasons, you cannot keep on discussing somebody who cannot defend himself in this House without tabling any relevant documents to what you are saying. You desist from that.

Hon. Elkana Mauti: Yes. You give me seven (7) days I table those documents. As the Assembly of Nairobi, we want to have our own Clerk who we have approved here, not one who has been approved by two or three people. We don't want to know who is who; but let the names be brought here.

Hon. Temporary Deputy Speaker: Order Hon. Mauti! Your five minutes are over.

Hon. Elkana Mauti: I request for only two minutes.

Hon. Temporary Deputy Speaker: It is not provided for in the Standing Orders. Hon. Member for Eastleigh North, Hon. Adow.

Hon. Member for Eastleigh North Ward (Mr. Osman Adow): I will be very brief because I will not be discussing an individual but I want to just make a few contributions.

First of all, according to me, the rule of law in this country is very important in this county and when people who purport themselves to be *bwana wakubwas* and break the law and think that there will be no consequences, I think this House will not take it lightly and that is what has been happening for the last one year.

One of the biggest rules that was broken was that the County Assembly Service Board has not been properly constituted for the last almost two years now and whatever the three people did, I think first of all it was an illegality. Whatever they have passed is an illegality because the board is not properly constituted as a representative up to now has not been hired and therefore whatever they have done makes it illegality and cannot be taken as per the law.

I think my experience in the last two years makes it not a House of rules but it has become House of jokes and we should say it that way because whatever we have done so far in this House has not been taken very seriously and I think we have to blame it on ourselves as Members of this House because we are not stamping our authority. I think we should go back and maybe talk to our leaders or even reconstitute so that the weight of this House is felt and that our voices are heard and whatever we say in this House is heard and is implemented. I think we are not here to discuss personalities but the office, and the office currently as it is required, should be approved in this Assembly. Even if they have done it illegally because they are not properly constituted, they should have brought the name to us for us either to approve or reject. I think that will be my contribution, thank you.

Hon. Temporary Deputy Speaker: Hon. Diana Kapeen.

Hon. Member for South 'C' Ward (Ms. Diana Kapeen): Mine is just a question. The other day the Deputy Speaker was in the Assembly and he made the ruling and the following day which was yesterday, the Speaker came and overturned the ruling, I am just wondering, you are seated as the Speaker right now,

whatever we have ruled today in this House, will it be overruled tomorrow or will it be a game of musical chairs.

Hon. Temporary Deputy Speaker: But we are not in a full House. Hon. Members you have stood on the floor of this Assembly according to Standing order No. 30, that there is a matter of definite county attention...and that is what we are discussing, there will be no ruling.

Hon. Diana Kapeen: That is my concern.

Hon. Temporary Deputy Speaker: Hon. Diana Kapeen, unless you are not willing to discuss that urgent matter that you had, then I am sorry.

Hon. Diana Kapeen: I just want assurance from you that whatever we discuss will see the light of the day, we don't want it to be overturned tomorrow.

Hon. Temporary Deputy Speaker: I will refer you to the Standing Orders, go and read No. 30. Hon. Ochar.

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Thank you Mr. Speaker. I stand with a very big heart and in fact my palm is hurting, because what the Hon. Member is saying is the truth and you cannot deny it in this Assembly. It was on Tuesday and the Deputy Speaker who is above you by one inch was sitting in that seat, and in fact we deliberated everything in this Assembly---

Hon. Temporary Deputy Speaker: Order!

Hon. Maxwell Ochar: Mr. Speaker even if you had authority as what---

Hon. Temporary Deputy Speaker: Hon. Ochar, did I hear you clearly?

Hon. Maxwell Ochar: Mr. Speaker even if you have authority as what, let me just say this, because the following day which was yesterday, everything was overturned.

Hon. Temporary Deputy Speaker: Order Hon. Ochar!

Hon. Maxwell Ochar: The following day which was yesterday, everything was turned down.

Hon. Temporary Deputy Speaker: Hon. Ochar, Order! If there is a Member that I have respect for is Hon. Ochar because of your age. But Hon. Ochar you cannot say that there is any Member here who is an inch over the other one.

Hon. Maxwell Ochar: Mr. Speaker the Deputy Speaker is an inch down and the Speaker is an inch above him and what we deliberated on Tuesday, yesterday, it was overturned - they were inconsequential and they are not standing.

Mr. Speaker we want assurance from you, you are my brother from another mother, I love you. What assurance do we have that what we discuss here will stand tomorrow when the Speaker will be here. The Speaker is just outside here, next to a certain café with the money he draws from this Assembly. He is just dining, leaving the work of the Assembly here. We should be told that if we deliberate this issue today, it will not be overturned tomorrow when the Speaker comes.

Hon. Temporary Deputy Speaker: I am so directed. Hon. Ochar--- Order, take up your seat, sit down! I have said here, Hon. Maurice Akuk stood on a Point of Order No. 30 and we are discussing, let us discuss. Hon. Manyala whom do you want to inform? I don't want to be informed. Order! Hon. Manyala.

Hon. Member for Kayole South Ward (Ms. Elizabeth Akinyi Manyala): Mr. Speaker sir I stand here with a very heavy heart because the County Assembly Service Board is supposed to be composed of, apart from the Members that are already in, the outsider who is supposed to be of a female gender. It is now two years along the line and just because this House is not gender sensitive, nobody seems to care about the extra woman who is supposed to join the County Assembly Service Board.

Now, we are here ventilating this moment and a ruling will be made and the worries of the Members is, are we here just to do side shows because by the end of the day you will rule and it will not see the light of the day. What assurance do we have this is not a repetition?

At one point when the Clerk was away, I did a Motion and I was told that if the Clerk is away there is no Motion that can drafted and be brought to the floor of the House. Now the danger is when the power is vested in one person, is this the devolution that we voted for?

But I have a feeling that in this County Assembly, powers are vetted or is deeply concentrated on either person that even when we sit here and ventilate and we give our ideas, the next day it is overruled without blinking an eye. These are the dangers that we are facing in this County Assembly. So what assurances are you giving us today, that by next week that the woman who is supposed to be in the County Assembly Service Board will be brought for our approval and the necessary steps taken including that of the Clerk which is now a thorny issue because if things were done in the right way there would be no delaying the business of the House which we are supposed to be accounted for. Thank you, Mr. Speaker.

Hon. Temporary Deputy Speaker: Order Members! Hon. Manyala as long as you want to discuss issues of importance to this County, you all know there was such an advertisement in the newspapers for that particular person and it is competitive and I hear you say that you want a woman, what if it she is not competitive? You were the same people who were complaining you want competitiveness and you are here saying you want a woman. What if she is not competent? Order Hon. Manyala! Order! If you want to welcome the wrath of the Speaker, you will get it. Whom do you want to inform? She doesn't want to be informed. Order Hon. Mumo! When you are standing on a point of order you have to say whom you want to inform.

A few minutes ago you wanted to inform the chair. Order Hon Mumo! The manner in which you conduct yourself here, you may be playing to the galleries but it also counts. This is an honorable House of which you must respect and if you don't feel you can't respect then you will catch the wrath of the Speaker. Honorable Hellen Katangie.

Hon. Karen Wanjiku (Nominated Member for Njiiru): Point of order.

Hon. Temporary Deputy Speaker: Your point of order is not granted.

Hon. Karen Wanjiku: Mr. Speaker sir, with all due respect, I just want to tell you how much I respect you and I do so because you have seen the light of school. You know how the Kenyan government has gone ahead on the issue of gender equity. We don't need to debate on this thing; to me it is just overdue. It should be out by now. Thank you.

Hon. Temporary Deputy Speaker: Hon. Luchiri.

Hon. Karen Wanjiku: Point of order.

Hon. Temporary Deputy Speaker: Hon. Karen, your point of order is not granted. You know how I do it better and I don't want to do it. Order! Can you sit down, Hon Member is on the floor.

Hon. Rose Luchiri (Nominated Member): Thank you Mr. Speaker for giving me this opportunity. We are in the 11th month of the year and we are really running far from our responsibilities. When I was sworn in in this Assembly in the month of March, I came here to represent....

(Loud consultations)

Hon. Temporary Deputy Speaker: Continue, Hon. Luchiri.

Hon. Nancy Luchiri: They are interfering so I can't continue. Mr. Speaker I need your attention.

What I mean is that Nairobi City Assembly Members are not doing their legislative duties. On the press recently there was an account of how the counties are performing but Nairobi County was no. 47. The reason why we are no. 47, I don't know and can't explain. When members come here to debate on issue that is really touching and they are complaining about the Clerk, you are protecting it and you don't want to give a ruling. Mr. Speaker you are delaying our development.

Hon. Temporary Deputy Speaker: Order Hon. Luchiri! The ruling about the Clerk was done yesterday.

Hon. Nancy Luchiri: What I mean, Nairobi County is underperforming because of one subject, and we need a direction. Mr. Speaker, today you are supposed to give your ruling on the issue we deliberated on Tuesday. This is an honorable house.

Hon. Temporary Deputy Speaker: Hon. Luchiri, with due respect, whatever you deliberated on Tuesday, a ruling was made yesterday by the Speaker. I know the majority of the members were not happy with it. Which is the way forward? You all know so you cannot come with a ruling again.

Hon. Nancy Luchiri: Mr. Speaker, I am a member of this house and am not giving a ruling but my concern is equal as Hon. Diana's concern and Hon. Maxwell's concern. We need a ruling in this house because I know very well you are timing our recess. You are just wasting our time because some members here, we don't know where they are. We need a ruling today. Thank you.

Hon. Temporary Deputy Speaker: Hon. Mumo, what do you want to clarify? Approach the Speaker on what you want to clarify. Hon. Kitavi, it's your time.

Hon. Member for Laini Saba (Hon. Boniface Kitavi): Mr. Speaker I need your full attention. Finish with that Honorable Member first.

Hon. Karen Wanjiku: Point of order.

Hon. Temporary Deputy Speaker: Hon. Kitavi, have my attention.

Hon. Boniface Kitavi: Thank you Mr. Speaker and I need your protection from all these noises. Mr. Speaker, this house is becoming a house of confusion.

Hon. Karen Wanjiku: Point of order. I have a right to speak.

Hon. Temporary Deputy Speaker: Your point of order is not granted, Karen. Order! You want to challenge the chair?

(Loud consultations)

Hon. Temporary Deputy Speaker: Sergeant-at-arm, Hon. Karen to be out for the rest of the today.

(Loud consultations)

Hon. Leah Mumo (Nominated Member): Point of information.

Hon. Temporary Deputy Speaker: Hon Mumo, order! Hon. Kitavi is on the chair. Order! You will have your time.

(Loud consultations)

Hon. Temporary Deputy Speaker: Hon. Ngaruiya, Order!

Hon. Leah Mumo: Hon. Speaker, I want to inform this house there is no female to escort the Hon. Member. She is a female; she cannot be escorted by a male.

Hon. Temporary Deputy Speaker: Order! I have said sergeant-at-arm, Hon. Karen to go!

Hon. Leah Mumo: A female Sergeant-at-Arm to come in this house. It is not allowed. That's violation of women rights.

(Loud consultations)

Hon. Temporary Deputy Speaker: Hon. Mumo, order!

Hon. Boniface Kitavi: Mr. Speaker, can you assert your power? Take charge.

Hon. Temporary Deputy Speaker: Hon. Member, I am very much aware the standing orders allows women ladies to be escorted by a woman, unfortunately we don't have a woman who is lady sergeant-at-arm.

(Loud consultations)

Hon. Temporary Deputy Speaker: Order! Honorable Members take your seats! Because of that simple reason, I have uplifted the suspension because there is no lady Sergeant- At- Arm to escort her out of the house.

Hon. Kitavi, it's your time.

Hon. Boniface Kitavi: Thank you Mr. Speaker. For once, I have seen wisdom in you.

(Loud consultations)

Hon. Boniface Kitavi: Protect me Mr. Speaker. In this era of women empowerment, we are yet to see much more but thank you for using your wisdom and uplifting the ban.

(Loud consultations)

Hon. Temporary Deputy Speaker: Hon. Manyala, I think you have realized we don't have a woman Sergeant -at -Arm to escort you out, now you want.....

Hon. Boniface Kitavi: Mr. Speaker sir, this Member is just seeking attention. You must be able to understand your members.

Hon. Temporary Deputy Speaker: Clerk, next time we should have a woman Sergeant- at- Arm on the floor of this house. That one is noted and the Clerk will take a very serious action.

Hon. Boniface Kitavi: Mr. Speaker, following the discussions from my colleagues here, I am noting that most of us are waiting for you to make a ruling on this matter of the Clerk.

I am not sure whether it is in order that as you sit there, you are going to make a ruling. We are just pouring out our feelings and emotions but at the end of the day, you cannot be able to make a ruling on that matter. But it's important that we discuss and deliberate on it so that we can be able to see the merits and demerits of bringing the name of the Clerk here for approval. However, even if the name comes tomorrow or on Monday, it will come from a source that is illegally constituted. This means, when the name comes here again, we will find ourselves in quagmire of going through circles of illegalities.

What we should be able to focus on is, can we be able to see a situation where the board itself is legally constituted then from there we can demand the board to do what is right by bringing the name of the Clerk for confirmation. What we need to do first is not mix issues. You know very well that it is urgent that the name should be brought here but we cannot mix urgent things and important issues and at the same time have an illegality. Two illegalities don't make things right Mr. Speaker and therefore this House is going through circus.

I think we have forgotten that Nairobianians are watching us waiting for development. Today we were expecting the substantive Speaker to be on that chair, but since you are there, we expect you to give us at least guidelines, not a ruling but guidelines. And what we are requesting are the timelines of when these things will be done. Otherwise we are just going through circles Mr. Speaker sir.

Finally as I settle down Mr. Speaker, the Member who brought this issue here I think it was very wise for him to do it, but we are getting again mixed up with issues. There are two issues he raised: Number one was the issue of the name of the Clerk, which we should discuss and dispense off with that matter. Number two is the matter of mortgages which again is a matter of importance

So, as we debate, I think you should be in a position to give us guidelines and way forward in as far as those two issues are concern. Thank you.

Hon. Temporary Deputy Speaker: Ok thank you very much Hon. Kitavi for those wise statements you've made, and I think each and every Hon. Member of this house has heard, and am made to believe that's why the Honourable Members who are ladies are agitating that in order for that County Assembly Service board to be constituted fully, they need a lady there. We'll wait, the advertisement was made, people made applications, and then we'll wait. You know very well that particular name will have to come to the floor of this house for passage. Then this is the day the Hon. Members who are ladies here, if they'll

find that is a man, is when you'll be able to speak to the Hon. Members who are men to see the reason as to why it should be a woman. And you'll make your final say on the floor of this house.

Hon. Members, I think you've had very wonderful discussion as far as Standing Order Number 30 is concerned. And you are all aware, that there's nowhere in this particular Standing Order a ruling is supposed to be made. You read the Standing Order, it states very clearly,

1) Any Member may at any time rise in his/her place and seek live to move adjournment of the County Assembly for the purpose of discussing a definite matter of agent County importance.

2) Member who wishes to seek leave to move the adjournment of the County Assembly shall at least 2 hours before the commencement of the seating hand to the Speaker a written notification of the matter but the Speaker shall refuse to allow the claim unless the Speaker is satisfied that the matter is definite, agent and of National importance and may properly be raised on a Motion for adjournment of the County Assembly. And we did adjourn, Members we've discussed and that's it.

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

Now what, what do you really want me to rule as far as mortgage is concerned? As far as-- order! Order Hon. Imanyara. As far as the name of the civilian to the Service Board is concerned? Then I'll leave it to you to understand that particular Standing Order. All the same I have a communication to make. Hon. Members I have the following communication to make: Ward Development Fund Committee training for elected Ward representatives on management and operation of Ward Development Fund. Hon. Members as you are aware, a Select Committee on the Ward Development Fund is established pursuant to section 35 of the Ward Development Fund act of 2014 and it's mandated among others to consider and recommend to the County Assembly any matter requiring action for the County Assembly pursuant to the provisions of the act, oversee the implementations of the act and in this respect shall after every two years submit a report to the County Assembly and where necessary propose any amendment to the act.

In particular with respect to the quantum of funds payable into the fund, in accordance with sec 4 of the Act, the Committee during its sitting held on 14th October 2014 resolved to invite elected Members of the County Assembly for an important training workshop on the management and the operations of the

fund and other related purposes. The training will be held at the Rainball Resort, Ruiru for one day being a Monday on 17th Nov 2014.

Hon. Members I therefore wish to request all elected representatives to kindly attend the crucial training that will orient you on the management and the operations of the Ward Fund. You are advised accordingly. Thank you very much.

Hon. Temporary Speaker: Hon. Akuk

Hon. Maurice Akuk: Mr. Speaker sir, thank you for giving me another opportunity, but indeed am very disappointed that you can actually allow Members to ventilate on a Motion of importance to this particular house, and then not give a ruling. Very confusing Mr. Speaker sir and if it is a house of rules and procedures we are not following any procedure at all. And I would rather that you do not give us time and discuss something that you are not going to give a ruling on. We seek your guidance, we seek your direction, and we seek your ruling to actually help this house move forward.

I don't see the point Mr. Speaker sir of standing here debating on an issue or a matter that eventually will come out empty. Mr. Speaker sir with all due respect, with all due respect Mr. Speaker sir, give us a direction, give us the way forward, all I was requesting for is for the law to be followed, all I was requesting for is for this name to be brought to this Assembly for approval. Mr. Speaker sir so much has come out especially from my colleague Hon. Kitavi. So much has come out that the purported County Assembly Board is also not constituted legally. If all this is happening in this County Assembly, we cannot give any meaningful service to Nairobians.

Nairobians are watching us and Members of the fourth estate are up there, they are not limited to their reporting and we are making this house be ridiculed. If at all this Nairobi is to experience any good service from us, it has to start with us from this Assembly and make us want to debate in this Assembly. Do not put limitations on us, do not take the avenue or the highway that you have taken for this particular issue, I beg that you give us direction even if you would tell us that we wait for the main Speaker to rule on the matter on a certain day. We will be ready to wait but we cannot go on as long as this Assembly is not properly constituted. Thank you.

Hon. Temporary Speaker: Thank you very much and I want to repeat ones again to you, that there's no ruling to be made as far as the Standing Order number 30 is concerned. Hon. Members, I can only give directions on the same and I gave you direction very clearly.

As far as the person who was supposed to be employed to work with Hon. Members at the Service Board is concerned, there was an advertisement, as for the interviews I don't know whether they have been carried out or not. I know it will be done and the name will come to the floor of the house. Isn't that a direction that I have given?

The timelines were contained in the newspaper when that advertisement was made, that you must apply within a specific period of time, the interviews will be conducted within a specific period of time, and the name will come on the floor of this house, and I know it is soon going to come to the floor of this house.

Secondly Hon. Members, with due respect, as much as you may want to force issues to go your way, we must consider the law and we must consider the Standing Orders. I never wrote this book at any given time, even if it's 'colonius' as you may wish to say, then you are supposed to come here on the floor of this house you amend whatever you feel that it is colonial.

Hon. Members, about two weeks ago, there was a ruling here, which was made as far as four billion shillings that the County Government Executive side wanted to borrow from the banks, and a ruling was made on the floor of this house. The Hon. Members who felt that that ruling was not proper moved to court and they actually restrained the Executive from borrowing that money. As much as that ruling was made on the floor of this house you cannot challenge the ruling of the Speaker. Whatever you ventilated here on Tuesday, a ruling was made yesterday. I know there's an aggrieved side but the law requires that if you are an aggrieved party, then you must follow the law and the Standing Orders. Hon. Members lets be reasonable enough and understand. I don't know as to why the Hon. Members who went to court to restrain the Executive from borrowing the money never forced it on the floor of this house. With those few remarks, the Assembly stands adjourned until Tuesday 2:30 pm.

House rose at 4:58P.M.