



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Wednesday 24th August, 2016

The House met at 2.30 p.m.

(Hon. Deputy Speaker (Mr. Kennedy Ngo'ndi) in the Chair)

PRAYERS

Hon. Deputy Speaker: Hon. Member's good afternoon. Hon. Members it has been brought to the attention of the Chair that there is lack of quorum and under Standing Order no. 31 (2), I direct the sergeant-At-Arms to ring the bell for 10 minutes as we wait for Members to come in.

You may now close the door, we have quorum.

Clerk proceed.

STATEMENTS

Hon. Deputy Speaker: There was a statement requested by Hon. Chege Mwaura from the Chairperson of the Committee on Labour and Social Welfare regarding the recent public dismissal of some County Inspectorate employees by the Governor for alleged failure to rein in the general lack of order in the CBD. Chairperson Labour?

Hon. Member for Utalii Ward (Mr. Wilson Ocholla): Thank you Mr. Speaker sir. On Wednesday 27th July, 2016 Hon. Chege Mwaura, MCA rose on the floor of the Assembly pursuant to Standing Order no. 41 (2) (c) and requested the Chairperson of the Sectoral Committee on Labour and Social Welfare for a statement regarding the recent public dismissal of some County Inspectorate employees by the Governor for alleged failure to rein in the general lack of order in the CBD.

He further asked the Chairperson to ask into and report on;

1. Status of the employees, whether suspended or interdicted?
2. How many Inspectorate employees were affected by the said suspension or interdiction or any other allegation as stated by the Governor?
3. Whether the officers were charged for alleged criminal activities and what were the charges?
4. Whether any investigation was undertaken by substantial allegations that occasioned the suspension or dismissal and if a report of the process was available?
5. Whether due process was followed in suspending or interdicting the officers and if yes, the record of the outcome of the process to be tabled.

Mr. Speaker sir, the Committee wrote to the Chair of the County Public Service Board on 8th, August 2016 requesting to be furnished with the written response to the statement requested by the Hon. Member. The Secretary, Public Service Board responded via a letter received dated 10th August 2016. In this regard, Mr. Speaker sir, I wish to report to the Assembly as follows, that;

Status of the employees

1. Mr. Speaker sir, the Committee was informed the officer was interdicted with effect from 8th July, 2016.
2. How many Inspectorate officers were affected by the said suspension or interdiction - Mr. Speaker sir, the Committee was informed that 6 officers from the Inspectorate Department were interdicted?
3. Were the officers charged for alleged criminality and what were their charges?

Mr. Speaker sir, the Committee was informed that the officers were served with show cause letter for gross misconduct which they responded and their cases were deliberated in the County Human Resource Management Advisory Committee (CHRMC) meeting held on 28th July, 2016. The Committee was further

informed that the recommendation of the CHRMC would be forwarded to the County Public Service Board after the confirmation of minutes. Mr. Speaker sir, a copy of the response from the Executive has been brought here for the response.

Mr. Speaker, I beg to lay this response. Thank you, Mr. Speaker.

Hon. Member for Ngara Ward (Mr. James Chege): Thank you, Mr. Speaker. I want to thank the Committee because they have tried their level best to come back with the said response. However, Mr. Speaker, allow me to mention that one of our duties as Hon. Members is to look at the oversight and the reason I was asking about interdiction and suspension is, what comes before the other? Because once you have been investigated and there is culpability or there is some misconduct that has been blamed on you, the first step of course is to suspend you so that they can investigate the allegations that have been brought forward, that informs the basis or that report that will come out of you suspension forms the basis for your interdiction or termination.

Mr. Speaker first and foremost there has been no report, the horse has been put before the cat. First of all they have been interdicted and then they are now told of a show course letter which was asked in July, and now it is end of one month. If you look at these officers none of them is a young person, so even the hard take and the process that can be brought to them is also not fair to them if the process is not clear, and for us without interfering with the work of the Executive is to look at the procedure of what is happening.

Mr. Speaker, I would want to say that I am not satisfied with the answer not because the Committee didn't do its work, but because the procedure has not been clearly laid down. For Example I want to highlight what the County Human Resource Management Advisory Committee has been given to work on, what are the minutes and procedures that they are using so that even if you are outside there you know that your matter is being handled procedurally and you know that there is a fair hearing.

Have these members been called upon to this Committee to respond to the allegations? If you look at our standing Order Mr. Speaker on the 2nd point, before you from that Chair says that some members is for gross misconduct. Before you get to gross misconduct there is the first one that you must have breached. So have these members been breaching the code before so that you get to the last one which is a gross misconduct.

So, if you look at the interdiction letters which have been tabled here, all of them having been charged with a gross misconduct. Which has not been completely been proved by a competent Committee. So Mr. Speaker, I would request that you further give the Committee more time so that they can go and look into all this issues possibly even to bring on board the Public Service Board and the affected members

so that we have a clear procedure and they have a clear way so that every member feel that their rights were not infringed. I thank you Mr. Speaker.

Hon. Deputy Speaker: Thank you Hon. Mwaura!

Hon Deputy Speaker: Yes Hon. Mauti.

Hon. Member for Kwa Reuben Ward (Mr. Elkana Mauti): Thank you Mr. Speaker. I am worried because the Committee tells us they were told or they were informed. It means that is a report of the Executive side. What about their investigation as far as the Committee is concerned? They have not investigated the matter. You cannot bring us somebody who does not wear clothes. We want somebody who wears clothes so that if this has happened as the Committee what are your investigations as far as the matter is concerned?

According to the other side, my Hon. Member if you find people stealing because they have licenses which were fraudulently given to them from the same office, will you wait? The first case is to suspend then from there you start investigating. We cannot tolerate some officers who purport to be the officers but give fraudulent licenses. Hawkers in town, all of them have licenses. They are from the same office. Can we be sitting leaving those officers in office? They should be at home because that is like stealing.

Thank you Mr. Speaker.

Hon. Deputy Speaker: Hon. Mwaura declined, you have just talked. You will make the clarification before the Committee. The Standing Order does not allow it and you are a Member of the Speaker's Panel you should be know that. Any Member with any submission as well? Before we move to the next order it has come out that the Member who requested for a statement from this specific Committee is not satisfied.

Order Hon. Warutere! I am making a decision on this. He has requested the Committee to be given at least another chance to make a proper investigation about this issue. I direct Mwaura, before they conclude their findings please appear before the Committee and share your concerns with them so that you may give them some guidelines on where you want to be corrected. For that reason I have given the Committee on Labour another three weeks to make a presentation which is---

Hon. Member for Roysambu Ward (Mr. Peter Warutere): (Inaudible)

Hon. Deputy Speaker: Order Hon. Warutere! Declined. The report has gone back to the Committee, thank you.

Hon. Deputy Speaker: Order, Hon. Mwaura! Hon. Warutere. The report has gone back to the Committee. Thank you.

PROCEDURAL MOTION

Hon. Deputy Speaker: Order, Hon. Manoah! Serjeant-At-Arm, when a Member is moving a Motion, you are not supposed to let any Member go out of the Assembly.

Hon. Majority Leader (Mr. Elias Otieno): Thank you, Mr. Speaker. I think you should control them not to move out when I am moving this Procedural Motion because it is very important for this House.

THAT pursuant to the provision of Standing Order No. 27 (3) (b), this Assembly resolves to sit on Tuesday 30th August, 2016 at 10:00 a.m. instead of 2:30 p.m. You know the reason why, we will be having our opening ceremony for the new Chamber which will be opened by the President of the Republic of Kenya, His Excellency Uhuru Muigai Kenyatta. I call upon all Members to attend that day. Even though you don't like that side of Jubilee, just come because this is the President of the Republic of Kenya.

Mr. Speaker, why do you want to sabotage what I am saying?

Hon. Deputy Speaker: I think even the HANSARD guys are trying to sabotage this.

Hon. Majority Leader: They are very right to do that because---

Hon. Deputy Speaker: Majority Leader, you are out of Order.

Hon. Majority Leader: Okay, Mr. Speaker. I am giving reasons why we are going to sit on Tuesday and I am requesting all Members to attend because it is the opening ceremony which will be opened by the President of the Republic of Kenya, who is the head of the state. Whether you like it or not, he is the President of the Republic of Kenya. I am calling upon somebody because they always don't like to second my Motion, but today, I know they are going to second it because---

Hon. Deputy Speaker: Order! *(Laughs)*

Hon. Leader of Majority: So, let me just call upon Hon. Warutere to come and second because he is very unique because of the coat he is wearing today. Let him come and second the Motion. Thank you.

Hon. Deputy Speaker: Thank you.

Hon. Peter Warutere: Thank you Majority Leader. I stand here to second that very important Motion. It will indeed be a day of honor hosting the president of the Republic of Kenya. It is a one off thing that happens probably in a lifetime and therefore we noted with a lot of pride and honor that for the first time all the 47 counties, His Excellency the President of the Republic of Kenya has chosen this great City, this great County, in his busy schedule to come and open that wonderful Assembly. And therefore it is in that spirit that the Majority Leader, Minority Leader, the Speaker, the Deputy Speaker and the Clerk had the Audacity to really invite the President to that function to come and dine with us, share with us and give us a word of wisdom and therefore indeed we are honored for that particular day. Asante sana.

(Question proposed)

Hon. Deputy Speaker: Hon. Members. May I call the mover to reply?

Hon. Leader of Majority: Thank you Members. I knew it is going to be passed without any opposition because everybody has agreed to come and just mingle with the President because some of you have never even touched his hand. So, I think that day, after the President has agreed that he is going to open the Assembly, it is good for every Member of this Assembly, 127 Members to come and attend. Plus the Speaker, we are 128 Members.

So, if he doesn't want to attend, the Deputy Speaker is going to preside over but I know he is going to come to preside over the ceremony of that day and it is very important because am going to be the first Majority Leader to welcome the president in this Republic of Kenya. I know you people you feel aggrieved, reason why am going to be.

It is not by coincidence *(laughter)*, am there by choice and you know very well this seat we cannot sit on it all of us, only one person can sit on that seat and he is none other than the son of Jennifer who is going to sit on that seat *(Laughter)* for the remaining time because as far as am seeing you here you are outgoing MCAs, for some of you it is going to be your last time with the president because you will not see president again and I know after 2017 am still going to meet him because am going to be elected...

Hon. Deputy Speaker: Order Hon. Majority, you are out of order completely!

Hon. Majority Leader: Thank you Speaker.

Hon. Deputy Speaker: Thank you Hon. Members.

(Question put and agreed to)

MOTION

Hon. Deputy Speaker: Hon. Members I did make a communication that the order 9 to appear in the Order Paper today as it was an interrupted business last week and unfortunately enough we were not able to reach out to the sponsor of the Motion who is Hon. Elizabeth Manyala, actually she is out of the country and I would direct the Motion be deferred and taken back to the House Business Committee to consider for allocation on any other date, and so directed. Thank you Hon. Members, I wish you well as the Assembly adjourns for tomorrow 2.30 pm, thank you.

(House rose at 4.00 p.m.)