



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Second Session

Thursday 15 February, 2018

The House met at 2.30 p.m.

[Hon. Speaker (Ms. Beatrice Elachi) in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

SECURITY OF THE MEMBERS

Hon. Speaker: Hon. Members, I have a Communication to make on security of the Members. Hon. Members, the security of the Members within the precincts is a matter the Chair takes very seriously. The Chair is alive to an incident that took place on the 18th December, 2017 at Sai Rock Hotel, Mombasa where Members of the Sectoral Committee on Energy and ICT lost their valuables within the precincts of the hotel and the matter reported to the police for investigations. Indeed, various incidents surface where threats to the security of the Membership have been made in the course of undertaking various committee mandates.

For your purpose, Section 3(2) of the County Assembly Powers and Privileges Act 2017 provides for the precincts as amongst other things; where a County Assembly or a Committee convenes outside the premises ordinarily used for its sittings, this Act shall apply as if the premises where the County Assembly or the committee is sitting within were within the precincts of the County Assembly. To mitigate any such threats thereof, I wish to give the following directives; that the office of the clerk ensure the security of Members in committees, plenary sessions and the security on the precincts of the Assembly is beefed up

and the Searjents at Arms be deployed accordingly to all committees when conducting activities outside the City Hall building precincts. Thank you.

VISIT BY A DELEGATION FROM MAKUENI COUNTY ASSEMBLY

Hon. Members, in our gallery today we have visitors with us. Hon. Members, our sitting this afternoon is graced by a delegation from Makueni County Assembly who have paid us a visit to benchmark on several key areas of our operations as a County Assembly and the operations of the larger County Government. The delegation from the Makueni County Assembly is comprised of Hon. Members of the Makueni County Assembly Select Committee on Delegated County Legislation who have hopefully interacted and engaged with the relevant committees of the Assembly and as I name them I will kindly request that you welcome them with the traditions of the House. The Hon. Kyalo Mumo is the Majority Leader. The Hon. Alfred Nyama Mutuku, Chairperson of the Committee. The Hon. Martha Kimilu, Vice Chairperson of the Committee. The Hon. Alfred Kituku, Member. The Josephat Nzioka, Member. The Hon. Kellion Mutuko, Member. The Hon. Francis Mutungi, Member. The Hon. Jackson Mbalu, Member. The Hon. Rosia Ndibo, Member and Hon. David Musua, Secretariat to the Committee.

Hon. Members, I also wish to recognize the Chairperson of the Nairobi City County Assembly Select Committee Chairperson, Hon. Peter Wahinya for his warm welcome and the hosting of the delegation on behalf of the Nairobi County Assembly. On behalf of the Nairobi County Assembly family I wish to give a warm welcome to the Hon. Members and please all feel welcome and enjoy your experience in Nairobi. Hon. Members, I further wish to recognize the presence of the Hon. Tobia Samba from the County Assembly of Mombasa County, Tudor Ward. We welcome you and we wish you all the best as you also engage in Nairobi and *karibuni sana kwa mafunzo*. Thank you.

NOTICE OF MOTION

CREATION OF WARD PLANNING COMMITTEES

Hon. Speaker: Hon. Maurice.

Hon. Maurice Gari: Thank you, Madam Speaker. THAT aware that Section 102 of the County Government Act, 2012 with the right for the principle of planning and development and facilitation of a county alongside which the need of planning serves as a basis for engagement between the County Government and the stakeholders and interested groups; further aware that Section 105 of the said Act provides that a county planning entity shall be responsible for amongst other things; ensuring meaningful engagement of citizens in the planning process of serving section 115 of the County Government Act 2012 provides that public participation in the county planning process shall be mandatory; noting that the planning function as a traditional exercise by successive defunct Nairobi City Council's and indeed the first County Government of Nairobi City County were centralized and did not include as many stakeholders as possible nor the public from the grassroots; recognizing that Section 48 of the County Government Act 2012 empowers the County Government to further decentralize its functions and provisions of services to other decentralized units, the Wards within the County established under Article 89 of the Constitution and

Section 26 of the said Act for the Nairobi City County to realize that indigenous development to the grassroots through participatory mechanisms as a new way of implementing the planning function; this Assembly asks the County Executive to consider the Devolution Planning Committee to consider the creation of Ward Planning Committees made up of 4 appropriate people from various sectors to endear greater and faster inclusive public participation and health planning across the city. I beg to table. Thank you.

STATEMENTS

Hon. Speaker: Hon. David Mberia.

PROCUREMENT PLANS FOR THE FINANCIAL YEAR 2017/2018 AND THE BUDGET IMPLEMENTATION REPORT

Hon. David Mberia: Thank you, Madam Speaker. Pursuant to standing Order number 45(2) (c), I wish to request for a statement from the Chairperson of the select Committee of Budget and Appropriations regarding the procurement plans for the financial year 2017/2018 and the budget implementation report. Madam Speaker, Article 6(3) of the Public Procurement and Disposal Act provides that all procurement shall be amongst other Bills within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan. Hon. Speaker, in the statement the Chairperson should enquire into and report on;

1. The Nairobi City County Executive Procurement Plans for the financial year 2017/2018 in line with the procurement law.
2. Supply a report for the first half of the financial year 2017/2018.
3. The sectoral budget utilization and itemized report for the first half of the financial year 2017/2018.

Thank you, Madam Speaker.

Hon. Speaker: Chair, Budget? Vice Chair? Can you put on your mic please?

Hon. Osman Adow: Madam Speaker, we will be able to respond in 14 days.

Hon. Speaker: 14 days?

Hon. Osman Adow: 2 weeks.

Hon. Speaker: Hon. Mberia, are you satisfied with the two weeks?

Hon. David Mberia: Yes.

Hon. Speaker: Hon. Osman Khalif, do you have a statement?

Hon. Osman Khalif: No.

Hon. Speaker: Hon. Anthony Kiragu.

RISK OF EXPENDITURE OF UN-APPROPRIATED MONIES BY THE NEWLY INSTALLED COUNTY EXECUTIVE

Hon. Anthony Kiragu: Thank you, Hon. Speaker. Pursuant to Standing Order 45(2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Budget and Appropriations regarding the risk of expenditure of un-appropriated monies by the newly installed County Executive due to delays of the forwarding of the supplementary budget. Hon. Speaker, it is encouraging that the County

Executive has embarked on meaningful development expenditure to put the County back on the right track to achieving its true potential. However, there are fears that the lack of supplementary budget to provide funds to the County Government to meet new or additional expenses in this fiscal year as inherited from the previous County Government might lead to un-appropriated expenditure which is against the law. Hon. Speaker, in the statement the Chairperson should inquire into and report on;

1. When the County Executive plans to forward the supplementary budget for the financial year 2017/2018 to take care of new or additional expenses as the County Government works to focus the County on the right development track. Thank you.

Hon. Speaker: Hon. Karani.

Hon. Jeremiah Karani: Thank you, Madam Speaker. I would also require 2 weeks to respond.

Hon. Speaker: *Mweshimiwa* Kiragu, are you okay with that?

Hon. Anthony Kiragu: Madam Speaker, that is not okay. It is a simple question of when and I think Tuesday is actually too far to answer that question. The latest should actually be one day which is the next Assembly day which is Tuesday next week.

Hon. Speaker: Chairperson.

Hon. Jeremiah Karani: Madam Speaker, we will try and see whether we will be able to respond next week, on Thursday.

Hon. Speaker: Not trying. We need the supplementary budget so you ensure that the supplementary budget is in this House because it is also affecting us. So, Vice Chairperson with the Committee, you will sit with the Executive and ensure that we have a supplementary budget. We are late and look at the timelines that we are given by law and we are late. Is that okay?

Hon. Jeremiah Kiragu: Alright.

Hon. Speaker: Hon. Francis Otieno.

Hon. Francis Otieno: Madam, I think somebody has just pressed my button, it was not me. Thank you.

Hon. Speaker: You do not have a statement to the Committee of Transport?

Hon. Francis Otieno: No, not today.

Hon. Speaker: Not today. Hon. Muturi, do you have a statement?

CONTROVERSIAL SUBDIVISION AND PRIVATIZATION OF PART OF THE CITY MARKET

Hon. Daniel Muturi: Thank you, Madam Speaker. Pursuant to Standing Order 45(2) (c), I wish to request a statement from the Chairperson of the sectoral Committee on Planning and Housing and the Chairperson of the sectoral on Justice and Legal Affairs regarding the controversial subdivision and privatization of part of the City Market.

Hon. Speaker, in 1928, the colonial Government of Kenya granted the current City Market under land Registration number 209/1855 covering approximately 1.582 acres to the then Nairobi Municipal Cooperation of Nairobi for a period of 99 years, from 1st August 1928, for the establishment of a municipal Market. Subsequently, in the early 1990s, the plot LR No. 209/1855 was subdivided and two parcels created from it and that is LR No. 209/1855/1 and LR No. 209/1855/2 for a public Market dome and food

court respectively. Hon. Speaker, on 22nd December 1992 the then Nairobi City Council irregularly transferred the plot LR No. 209/1855/1 to Market Plaza Limited for private development leaving plot LR No. 209/1855/2 for the City Market. Further, on 22nd May 2007, the then City Council of Nairobi executed a 10 year contract lease of the Market under LR No. 209/1855/1 to Vineyard Holdings Limited associated with one Mr. Nyamu until 2017 which resulted in the traders being issued with a 45 day eviction notice.

In 2010, the then Ethics and Anti-Corruption Commission alongside the Ministry of Lands investigated the matter and found the property to have been illegally allocated and directed that the titles be revoked under gazette notice 15580 of 26th November, 2010 and the property be reverted to the public to be held in trust by the then Nairobi City Council.

Hon. Speaker, in 2011 Market Plaza challenged the revocation of the property LR No. 209/1855/1 in court under LR No. case 18 of 2011, which was subsequently dismissed in 2016 by the court and it is by the judicial dismissal that Market Plaza Limited further appealed on the matter in 2017.

Hon. Speaker, the said property LR No. 209/1855/1 had been gazetted by the then Minister of State for National Heritage and Culture by gazette notice No. 5024 of 22nd May 2017 as a National Monument prohibiting structural development in the premises. This however was not challenged in court by Vineyard Holdings. Subsequently, Market Plaza Limited moved to court under application number 20019 of 2016 seeking order of temporary injunction berating the Nairobi City Council and Market Plaza for entering property which was declined and the matter will be handled on 20th February 2018. Hon. Speaker, in the statement, the Chairperson should inquire into and report on;

1. How and why the property LR No. 209/1855 was subdivided to LR No. 209/1855/1 and LR No. 209/1855/2 and subsequently privatized to Market Plaza and Vineyard Holdings respectively?
2. Why Vineyard Holdings has been trying to develop the property and evict genuine traders after the titles were revoked and having not been challenged in court?
3. Why the two properties LR No. 209/1855/1 and plot No. 209/1855/2 have not been merged under the mother title as directed by the EACC and the Ministry of Lands gazette notice 15580 of 26th November, 2010?
4. Measures taken by the County to repossess the property in view of the court order dismissing the application by Market Plaza to assume possession of the property given that the company does not have any temporary injunction over the property?
5. Measures taken by the County to ensure the illegally allocated land as per the Ministry of Lands and EACC gazette notice 15580 of 26th November 2010 are reclaimed?
6. Measures taken by the County to fix the matter for hearing and final determination by the court?

Hon. Speaker: Is it the same statement?

Hon. Daniel Muturi: It is the same statement Madam Speaker.

Hon. Speaker: Do you want to add?

Hon. Daniel Muturi: With your permission Madam Speaker, I wanted to add something

Hon. Speaker: Okay

Hon. Daniel Muturi: Thank you very much, Hon. Speaker. In addition to the aforesaid request, allow me to table these three documents which will assist in shedding more light into the matter with hopes that resolution to the issue will take the shortest time possible. Document one is a petition by the City

Market, document two is the court rulings of the past cases and document three contains what appears to be a last minute undertaking by the Executive. May I table the documents Madam Speaker?

Hon. Speaker: Yes *Mheshimiwa*. I want to ask one question. Is the matter still alive in court?

Hon. Daniel Muturi: Madam Speaker, when City Market got a ruling on this matter, they were supposed to take possession of the property. We also have documents to that effect. What is alive in court is the fact that they were challenging the revocation of the titles and the matter is in the court of appeal and is due to be heard on the 28th of February

Hon. Speaker: Therefore, I will request you to await the ruling of the Court of Appeal and the matter not to be discussed because of prejudice. It is a matter that is alive in court and it will be very wrong for this House to discuss it. I agree that you can table the documents for purposes of the committee looking into it. The committee can look at the document and wait for the ruling.

Hon. Daniel Muturi: Madam Speaker, if I may. I have an internal memo here from the County of Nairobi directed to the director of Markets and I wish to read it out to you. This is reference to HCC. No. 1059 Of 2000 Market Plaza Limited Vs City Council. Madam Speaker, the memo reads; *'Reference is made to the above and telephone conversation of the undersigned. This letter authorizes the director of Markets to take the possession of the Market and it is to be confirmed by the city council lawyer who was acting at the time, Mr. Omotia. When the suit in respect of this which is interlocutory injunction has been granted is not determined within a period of 1 months from the date of the grant the injunction shall lapse unless for any other sufficient reasons'*.

Hon. Speaker: I agree but as I said, the new Constitution dispensation is very clear. Parliament is also like a High Court. After we look at issues, we agreed that both arms will respect each other and so for purposes that it is still alive in the Court of Appeal, we will await. I am not saying that we have completely disregarded the statement. No. we wait to March

Hon. Daniel Muturi: It's a hearing in February and not a ruling. Sorry Madam Speaker.

Hon. Speaker: It doesn't matter. It is alive in court and it does not allow us--- If it was starting the process and them going to court then it would have been different. But now, the process is in court and we are bringing the matter here will be infringing the rights of the Court of Appeal. As the Speaker, I do not allow. However, I have given a soft landing that it go to the committee and follow quietly as we await the Court of Appeals directive

Hon. Daniel Muturi: Thank you, Madam Speaker.

Hon. Speaker: Thank you. *Mheshimiwa*, can it come as a petition? I see that it is a very long and weighty issue. Why can't they do a petition to the Assembly and then we look at it? Next order. We have a few responds to statements that went out. Chair Transport? Do you have a response?

Hon. Member: Madam Speaker. I wish to respond on Tuesday. Please.

Hon. Speaker: Okay. So there is no response? Chairperson Liquor do you have a response for Hon. Wanyoike?

Hon. David Njehia: Hon. Speaker, the response is ready and I will table it on Tuesday.

Hon. Speaker: Is the response ready?

Hon. David Njehia: it is ready but I will table it on Tuesday next week.

Hon. Speaker: Give the House reasons as to why we send you to Tuesday?

Hon. David Njehia: There was a bit of discrepancy when I met Hon. Wanyoike and we decided to talk to the Executive. By Monday morning, I believe that it will be ready and I will table it on Tuesday.

Hon. Speaker: Okay. Hon. Wilson Ochola sought a statement from the Chairperson Transport. Do you have the response regarding the construction of Drive Inn Road?

Hon. Member: Madam Speaker, I have the responses but they have some errors. We will rectify them by Tuesday.

Hon. Speaker: So you have sent them back to the Executive to rectify? Hon. Nicholas Okumu had requested for a statement from the Chairperson of Environment on illegal dumping of solid waste. Do you have the response? Chair Environment?

Hon. Peter Imwatok: Madam Speaker, I want to notify the Chair that Hon. Okumu is not around. Oh, he is around. Proceed Vice Chair. I did not want that question to be answered in his absence.

Hon. Francis Otieno: Madam Speaker on 30th November 2017, Hon. Nicholas Okumu, MCA rose on the floor of the Assembly pursuant to Standing Order No. 45 (2) (c) and requested for two statements from the Chairperson of sectorial committee on Environment and Natural Resources.

RESPONSE TO A STATEMENT REGARDING ILLEGAL DUMPING OF SOLID WASTE AND RAW SEWERAGE AT JACARANDA GROUNDS

Madam Speaker on 30th November, 2017 On Nicholas Okumu MCA rose on the floor of the Assembly pursuant to Standing Order No. 45 (2) (c) and requested for two statements from the Chairperson of Sectorial Committee on Environment and Natural Resource. The Member requested in the statement regarding illegal dumping of solid waste and raw sewerage at Jacaranda grounds on 27th November, 2017 and piled garbage waste beside Ngong River along Embakasi Soweto Bridge, in Lower Savannah Ward respectfully.

In the first statement the Member requested that the Chairperson should inquire into and report on: (1) who authorized the illegal dumping of Sewerage in ground, (2) Measures taken to clear the waste and hold those responsible to account and (3) whether anyone has been arrested and action taken against them.

In the second statement the Member requested that the Chairperson should inquire into and report on why: (1) The County Government has not collected the waste along and around the said river since the beginning of the year. (2) What measures have been taken by the County Executive to address the matter wrote to the County Executive Committee Member responsible for the Environment, I think there is a typo error there but responsible for the Environment Water it has some typo errors it cannot be water energy and natural recourses, water is not with energy.

Hon. Speaker: Hon. Chair, had you read the statement before?

Hon. Francis Otieno: No have just been given.

Hon. Speaker: Okay proceed!

Hon. Francis Otieno: So it is Environment and Natural Resources on 1st December 2017 inviting her to a Meeting---

Hon. Speaker: What is it, Hon. Hassan?

Hon. Abdi Hassan: Thank you Madam Speaker. Is it in order for Chair to read a Statement which he has not gone through? If he went to clarification can he be able to clarify and he has not yet gone through the whole statement he has just received in the floor Madam Speaker.

Hon. Speaker: I will defend my Chair because I know he is not the Chair, he is standing in for his Chair so he is the vice. I will defend him on that because it is not his wish that is why I have asked him the same if he had read.

Do you need time to read this and bring it to us on Tuesday properly because you are going to be asked question and you will have a lot of challenges in answering these questions. Yes Minority leader!

Hon. Elias Okumu: Madam Speaker, as much as he is not the Chair, but I think this statement was meant for the Committee of Environment and he is the Deputy Chairman of Environment, so there is no question of telling us whether he was not the one to bring it in the Assembly. That is incompetence in that department.

So, there is nothing you are trying to tell us, on what you are coming to read here again. What you should do is bring back the statement in this House, not giving us and then you ask yourself there is an error. Where is that error from? Did the committee analyze that statement before bringing it here? There is nothing like that Madam Speaker.

Hon. Speaker: Okay Minority Leader. Hon. Chair!

Hon. Francis Otieno: Madam Speaker there are three statements and I have not gone through all of them and I can see they have some typo errors so I would like to beg that you give me time to go through them then I response of Tuesday.

Hon. Speaker: Okay most obliged I will do that. Thank you Chair and thank you for standing in at least you have brought with errors you see the rest they normally return and I have always said if you know the statement is not completely ready then do not bring it in the Order Paper that I will start now requesting.

So, from now onwards, let us have responses that are in the House not the ones that have gone back and they have not agreed with Members.

Do we have all the response have given you now so you will come with three responses that is for Mheshimiwa Njihia and Mwaura isn't it. Okay. Next Order! Yes, *Mheshimiwa* Okumu!

Hon. Nicholas Okumu: Thank you Madam Speaker, first of all I want to echo the sentiments of my Majority Leader that truly this show incompetence. I requested this statement almost three months down the line. To date, you can see the confusion and that goes ahead to tell you that whatever it is happening in the Committees, we must reconstitute our committees if we have to be effective. We cannot have a Committee that takes more than three to four months and when they come to present to us, the statements they tell us there is a typo error.

It is not possible and that means we must have a vote of no confidence either with the Chair or the entire Committee. Madam Speaker, I am very much disappointed because I even went to the Committee and the answers that I was expecting to get from the Committee were not given satisfactorily.

Through the Vice Chair, we were able to establish that the Committee does not have the capacity to investigate and to bring to book the culprits' of the heinous act. I wish to requests the Vice Chair because it looks as if we are going to give another three months before you response. Please do your work thoroughly, diligently and seriously don't embarrass this House.

I want to speak also for the other Committees that perhaps it is time we looked at the competence of the Members in each and every Committee and reconstitute it better so that we can have a better capacity and people who are able to delivery. Thank you Madam Speaker.

Hon. Speaker: Thank Chair do you have something to say.

Hon. Francis Otieno: Madam Speaker, I was just giving a response and it does not mean that I am satisfied with whatever it is in. It is the Executive that was giving the response. This does not necessary mean that I am satisfied with the response. I am not satisfied with it and I am not part of the investigating team.

I will say that the Committee is in a position to name the culprit. There is an investigation team that is supposed to investigate, name and take action against the culprit. The Committee has no capacity to do that. Thank you.

Hon. Speaker: True agreed. Yes, Minority Leader, you still want to be on this issue? I want to finalize.

Hon. Elias Otieno: Madam Speaker, when we had the Kamukuji here on Tuesday, I said it very clearly that incompetence in this Committee is killing this House because there is no way the Chairman can tell us he is not satisfied and yet he brought this report to this House.

Hon. Speaker: Order! Minority Leader, just a minute. Hon. Ogeto, you will go back to the bar and bow to the mess and walk in.

Hon. Elias Otieno: You must have some respect my friend, you don't come here like someone who is going to the toilet.

(Laughter)

Hon. Speaker: Order, Minority Leader!

Hon. Elias Otieno: So, Madam Speaker, I will just call upon my counterpart but you said it clearly that you will go to reorganize these Committees because we constituted them before we knew one another but now we know everybody here who is capable to do what. So, right now from next week if you find yourself you are not in that Committee don't blame the leadership of the Assembly it is only that we are just going to give the competence people---

Hon. Speaker: Order! As the Majority side became the Minority side? Order!

Hon. Elias Otieno: In those Committees, if the Deputy Chairman of Environment can come here and does have a report and then he calls the CEC, then he is telling he was not satisfied, that is very wrong. So that is what I can say today Mr. Deputy Chairman.

Hon. Francis Otieno: Madam Speaker, I would like to say that I am not satisfied with the report and I repeat that the Committee does not have the capacity to investigate and align the culprit in court. The Committee does not have that capacity, this response we were getting from the Executive and it is the Executive that does not have that is not competent enough. If I am not satisfied with their response what do you expect me to say? That I am satisfied with a report that I am not satisfied with? I was equally affected when this was done.

Hon. Speaker: Chair, I think I have finalized. The Committee recommends and I agree you are not supposed to go and become the police you recommend only. So that one I agree with you and we have agreed on Tuesday you will bring the response properly. *Mheshimiwa* Thuo what is the matter?

Hon. Charles Thuo: Thank you, Madam Speaker for giving me this chance. I chair a Committee and I find it not right for a Chairperson of a Committee to bring in this House a report that he is not happy with, that is a bad precedent. A Committee is a representative of this Assembly and when it sits on behalf of all these Hon. Members and the duty that has been given to us by the Constitution and people of Nairobi

who voted for us is to represent them. We only have three duties to represent, to oversight and to legislate. One job of representing our people is keeping the Executive on toes.

They give you bad report you take it back to them and follow it up and make sure the report you bring to this Assembly is right. We cannot allow this to go on. If they are not co-operative you are supposed to come back to the Assembly and report and say the people who are supposed to get the report from are not cooperative. But don't bring half cooked statements.

Mheshimiwa Mark gave us a very good example here, he has a report but he said I don't believe in this report because it has errors and I have to take it back. The Chairpersons are the top cream of these Committees of this Assembly. I think there is need of some seriousness that does not reflect on all Chairs. I am happy because he is not a Chairperson, I would have been very worried. Thank you, Madam Speaker.

(Laughter)

Hon. Speaker: Order Hon. Gathundo! He is a very competent Chair, he has said the truth and that is the problem, I take it back to you Liaison Committee, you must deal with it all the Chairpersons. Let us proceed, next order.

PROCEDURAL MOTION

Hon. Speaker: Majority Leader.

LIMITATION OF THE TIME FOR THE DEBATE AND FOR THE MOVER

(Resumption of Motion interrupted on 14th February 2018)

Hon. Abdi Hassan: Thank you, Madam Speaker, this procedural Motion was moved yesterday by my Whip and the essence of this Procedural Motion is to set limitation of the time for the debate and for the mover, the Leader of the Majority party, the Leader of the Minority party and members as a whole.

(Hon Speaker left the Chair, Hon. Speaker took the Chair)

Mr. Speaker sir, before I call the seconder to second the Motion, I want to tell my Chairpersons, if you are not competent enough and you cannot bring a statement or an answer which is satisfactory to this House and as the Deputy Chair has put that he is not satisfied with what he has brought to this House. And he stands and reads the same thing that he is not satisfied with. That shows how members are not taking the business of this house seriously. That is the reason why we have a lackluster Executive because they have a lackluster committee led by incompetent chairmen. I think it is high time we reconstitute these committees in order to put each and every member where he can perform the best.

If you cannot articulate issues at the committee level, and you cannot push the Executive enough to come with a satisfactory answer to this House, then you are giving Nairobians disservice. As the Majority Leader, I won't allow my chairmen to fail Nairobians. Because the moment this Assembly fails, then the Executive won't perform because our main mandate as per the Constitution of Kenya is to

oversight, the Executive regardless you are from the majority side or from the minority side, that is your core mandate from the Constitution.

The second is to legislate. You cannot legislate while you are unable to internalize a mere statement from a CEC Member. How can Nairobians expect you to legislate? The third mandate is to represent the people of Nairobi. The sovereign will of the people of Nairobi, is vested within this Assembly and the moment you fail to do your mandate, then we are doing disservice to Nairobians, to the party which you represent and to yourself.

Mr. Speaker sir, my good friend Hon. Waithera we don't have Madam Speaker here, we have Mr. Speaker sir. Mr. Speaker sir, before I ask the seconder to second the Motion, I wish to state as follows with your indulgence *Bwana* Speaker that those fellows who think they are near to the power and they can use proxies and goons to intimidate elected leaders not to perform their mandate. I want to tell them today, you cannot cow us, you cannot intimidate us, we will discharge our mandate without fear or favour.

(Hon. Mberia stood on a point of Order)

Hon. David Mberia: Mr. Speaker, who are these leaders who are close to power that the Leader of Majority is afraid to name in this House?

(Applause)

Is he afraid to name Members of this House who are close to power? What is this power? Mr. Speaker, I believe the County government of Nairobi has two arms; the County Executive and the County Assembly and for us to achieve development in this city, we must avoid shenanigans. The Majority Leader is a Jubilee member, we as NASA we have no positions to chair committees. He should not come here and threaten; we do not know whether he is threatening air or shadows. We want him to tell this House who are these goons? I am surprised and my good friend Guyo it seems you are fighting shadows. It seems you are very much afraid of your own members.

I can assure you if these members gang against you Majority Leader---

Hon. Moses Ogeto: Mr. Speaker, I believe that there is a Procedural Motion which is supposed to be moved. I don't understand what members are trying to say including my colleague Hon. Mberia and the Leader of Majority, can they be in a position to leave this House according to the Motion which has been tabled before this House Mr. Speaker. Mr. Speaker whatever is coming up; please give guidance on the Motion so that we can proceed.

Hon. Deputy Speaker: Majority Leader.

Hon. Abdi Hassan: Sir I think he is not referring to members here and he knows I can't name people here without a Substantive Motion according to our Standing Orders and as---

(Hon. David Mberia spoke off the record)

Hon. Deputy Speaker: Hon. Mberia please, give the House a chance.

Hon. Abdi Hassan: I think the Member is confused and I cannot go back to him, I am used to his antics. As the Leader of the Majority party, this honour was bestowed to me by the party Leader who is His Excellency the President of the Republic of Kenya. Mr. Mberia, you have no capacity as a minority to discuss about my office, you don't have that capacity.

Hon. Deputy Speaker: Hon. Mberia once again----

(Hon. David Mberia spoke off the record)

Hon. Deputy Speaker: You don't belong to Jubilee party. He is the Majority Leader because he is a member of the Jubilee party so don't use that language because---

(Hon. David Mberia spoke off the record)

Hon. Abdi Hassan: Mr. Speaker sir, I am on my feet---

Hon. Deputy Speaker: Majority Leader, can you please ask for a seconder?

Hon. Abdi Hassan: Mr. Speaker sir, I am on my feet and when I am on my feet and you have not given the Member the right to speak and he is a senior member, he should know the procedure of this House. Yesterday when I was with the Governor, with the Minority Leader and my friend Hon. Warutere, someone called us; he called Warutere first, he threatened Warutere. After finishing with Warutere, he called me and did the same threatening. After finishing with me, he called Imwatoke, he did the same threatening. I was----

(Hon. David Mberia spoke off the record)

Hon. Deputy Speaker: Please, Hon. Mberia, you are out of order.

(Hon. David Mberia spoke off the record)

Hon. Deputy Speaker: So, you want to argue with the Chair?

(Hon. David Mberia spoke off the record)

Hon. Deputy Speaker: Majority Leader, continue please.

Hon. Abdi Hassan: Mr. Speaker sir, the security of any Member here is a serious matter. And when we talk about such serious matters and we know some people were given KShs.5,000/= to come and try and jeopardize such matters, tomorrow you will be the one going to be beaten there outside----

(Loud consultations)

Hon. Deputy Speaker: Order, Hon. Mberia! I have not given you a chance.

(Loud consultations)

Hon. Abdi Hassan: I think now it is very clear Mr. Speaker sir---

Hon. Deputy Speaker: Majority Leader, please call a seconder and we continue.

(Loud consultations)

Hon. Abdi Hassan: Mr. Speaker sir---

Hon. Deputy Speaker: Majority Leader, please call for a seconder and we continue.

Hon. Abdi Hassan: Mr. Speaker sir, I cannot be diverted by people who have taken Kshs.5, 000.

(Loud consultations)

Hon. Deputy Speaker: Order please! Osman, please Order!

(Loud consultations)

Hon. Deputy Speaker: Please let us go back to the meeting.

(Loud consultations)

Hon. Deputy Speaker: Please Order! Osman, Order!

(Loud consultations)

Can I give the last warning, please! Osman sit down! Hon. Mark, please sit down! Order, The issue of security was communicated by the Speaker. So can we go straight--- thank you. Please let us dwell on issues that brought us here. Let us give the House the respect it deserves.

Hon. Abdi Hassan: Mr. Speaker sir, I am not a person who can be intimidated by anyone...

Hon. Deputy Speaker: Mark, please sit down! Sit down! Hon Members we have been working very closely all of us as one team. I don't know where this confusion is coming from.

Hon. Abdi Hassan: Thank you, Mr. Speaker sir---

(Loud consultation)

Let me ask my counterpart the Minority Leader to second the motion.

Hon. Elias Otieno: Thank you, Mr. Speaker.

Hon. Deputy Speaker: Just second the motion.

Hon. Elias Otieno: I rise to second the Motion because this motion is guiding us according to the time we are going to talk in this Assembly, so I second.

(Loud consultations)

Hon. Deputy Speaker: Order, Francis, Order! Hon. Wahinya, sit down!

(Question proposed)

The mover to reply!

Hon. Abdi Hassan: Thank you, Mr. Speaker sir. I thank the member who contributed to the motion. I beg to move.

(Question put and agreed to)

(Loud consultations)

Next order!

Hon. Mark Nding'u: Mr. Speaker sir, point of order, can we go for a division? We want a division.

Hon. Deputy Speaker: It is already overtaken by events. Let me give a warning. You must have respect for the Assembly. If you know that you are not ready for the session, please you may leave the house. If you are with us please contribute positively. Next order!

LIMITATION OF DEBATE ON REPORT OF A COMMITTEE

(Loud consultation)

Hon. Abdi Hassan: THAT, notwithstanding the provisions of Standing Order 103(4), this Assembly orders that, each speech in a debate on a Report of a Committee, a Sessional Paper or any other Report submitted to the Assembly, be limited as follows: - A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

Hon. Elias Otieno: Mr. Speaker, I second

(Question proposed)

Hon. Deputy Speaker: You can now debate.

Hon. Abdi Hassan: I beg to reply

(Question put and agreed to)

Hon. Deputy Speaker: Next Order.

LIMITATION OF DEBATE ON MOTION ON THE ADDRESS BY THE GOVERNOR

Hon. Deputy Speaker: Majority Leader.

Hon. Abdi Hassan: Thank you, Mr. Speaker. THAT, notwithstanding the provisions of Standing Order 103(4) and in furtherance to the provisions of Standing Order 25(5), this Assembly orders that debate on the Motion on the Address by the Governor be limited to no more than five (5) minutes for each Member Speaking, thirty (30) minutes for the Mover in moving and replying and twenty (20) minutes for the Leader of Minority Party.

I ask my counterpart, the Minority Leader to second the Motion, thank you, Mr. Speaker.

Hon. Elias Otieno: I rise to second the Motion.

(Question proposed)

Hon. Deputy Speaker: Majority Leader to reply.

Hon. Abdi Hassan: I beg to reply, Mr. Speaker.

(Question put and agreed to)

Hon. Deputy Speaker: Next Order.

LIMITATION OF DEBATE ON MOTION ON ADJOURNMENT

Hon. Abdi Hassan: THAT, notwithstanding the provisions of Standing Order 103(4), this Assembly orders that, the debate on any Motion for the Adjournment of the Assembly to a day other than the next

normal Sitting Day in accordance with the Calendar of the Assembly, be limited to a maximum of three (3) hours with not more than five (5) minutes for each Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of ten (10) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order. Provided that, when the period of Recess proposed by any such motion does not exceed ten (10) days, the debate shall be limited to a maximum of thirty minutes (30), and shall be strictly confined to the question of the adjournment.

I ask my counterpart to second the Motion, thank you, Mr. Speaker.

Hon. Elias Otieno: Mr. Speaker, it is very important for all of us to agree to the Motion rather than some of us opposing because it is about the calendar of the Assembly. Cartel is also a good name. I rise to second, Mr. Speaker.

(Question proposed)

Hon. Deputy Speaker: Any debate on this? Majority Leader, please reply.

Hon. Abdi Hassan: I beg to reply, Mr. Speaker.

(Question put and agreed to)

Hon. Deputy Speaker: Next Order.

APPROVAL OF THE ASSEMBLY CALENDAR

Hon. Abdi Hassan: THAT, pursuant to the provision of Standing Order 29(1), this Assembly approves the Calendar of the Assembly (Regular Sessions) for the Second Session of the Assembly, as contained in the Schedule attached to the Order Paper.

I ask my counterpart to second the Motion, thank you.

Hon. Elias Otieno: Thank you, Mr. Speaker, I think you are in good form. You cannot fight with the Government, even Miguna Miguna tried it and now he is in Canada. That is the reason why you are there to protect the Motion. I second the Motion.

(Question proposed)

Hon. Mark Ndung'u: Mr. Speaker, reading the mood of the House and knowing how the cartels are working here in the Assembly, please call the leader of the cartels to reply.

Hon. Deputy Speaker: Mover to reply.

Hon. Abdi Hassan: I am the Leader of Majority of this Assembly and cartels are well known. Today they have tried but it is all in vain---

(Loud consultations)

Hon. Deputy Speaker: Order! Continue, Leader of Majority.

Hon. Abdi Hassan: It is sad for this House to see some few elements---

(Loud consultations)

Hon. Deputy Speaker: Order! Just reply!

Hon. Abdi Hassan: Few elements led by Chairman of cartels, Hon. Mark Ndung'u. They tried but it is very unfortunate---

(Loud consultations)

Hon. Deputy Speaker: Order! Leader of Majority, please confine to the Order. Please reply.

Hon. Abdi Hassan: It is sad that we have lost the Chair on Transport Committee because he was so incompetent. We will give a person who is competent to deal with that sector. I beg to reply, thank you.

(Question put and agreed to)

Hon. Deputy Speaker: Thank you, next Order.

MOTION

Hon. Deputy Speaker: The Member is not in the chamber, I beg to defer this Motion to next week, Tuesday 20th February 2018.

(Motion deferred)

Hon. Members, today you have shown that you are seriously interacting, but when we have quests around, even if we defer, please show sanity; it was wrong. You heard that we had MCAs from Makueni but you have shown disrespect. What I am saying is that we are all together and we can always meet, if you want a *kamukunji*, we shall ask for it so that we can solve the differences within ourselves. This is a House of rules and decorum is required.

ADJOURNMENT

Hon. Deputy Speaker: With those few remarks, let me take this opportunity to adjourn to Tuesday 20th February 2018 at 2:30 p.m.

The House rose at 4:26 p.m.