



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Third County Assembly – Second Session

Wednesday 1st November 2023

The House met at 2.30 p.m.

[The Speaker (Hon. Kennedy Ng'ondi) in the Chair]

PRAYER

Hon. Speaker: Hon. Members, you may be seated.

COMMUNICATION FROM THE CHAIR

GUIDANCE TO MISCONDUCT BY HON. FUAD MOHAMMED

Hon. Speaker: Hon. Members, good afternoon. I have a communication to convey to the Assembly in regards to guidance to misconduct by Hon. Fuad Hussein Mohammed.

Hon. Members, you will recall that at the Assembly Sitting held yesterday Tuesday 31st October 2023, the Majority Whip, Hon. Moses Ogeto, MCA, rose under Standing Order No. 118 and invited the Chair to Name Hon. Fuad Hussein Mohamed, MCA following his threat of violence towards the Hon. Speaker.

Hon. Members, you will also recall that the Chair, pursuant to Standing Order 117 (2), accorded Hon. Fuad Hussein Mohamed, MCA, an opportunity to respond and apologize. Indeed, the Hon. Member in demonstration of admittance of the accusations leveled against him, proceeded to apologize to the Chair and the House and in his own words he stated as follows:

"Hon. Speaker, I apologize for my actions and I withdraw."

Hon. Members, it is prudent that I inform the House that the Chair has a myriad of options of sanctioning Members as provided for under Standing Orders 116, 117, 118 and 119. However, the Chair while sanctioning Hon. Members, is not only guided by the strict pursuit of sanctions spelt out in the Standing Orders, but also being considerate of the remorseful demeanor of the Member in question.

In this regard, Hon. Members, as a symbol of unity and pursuit of cohesion in the County Assembly, I take the apology rendered by the said Member positively and restrain myself from administering adverse punishment in the application of the Standing Orders.

(Applause)

Hon. Members, nonetheless, may I bring to your attention that the Speaker is the custodian and defender of the Constitution and all other rules of procedures in the County Assembly. In the said Constitution, Statutes and Standing Orders, Members of County Assembly being considered as state officers, are subject to high measure of integrity standards. Specifically, Chapter Six of the Constitution which is deciphered by the Leadership and Integrity Act, 2012, County Assemblies Powers and Privileges Act, 2012, Public Officer Ethics Act, 2013 and the Standing Orders spells out what is expected of state officers with regards to their conduct both in public and private life.

Hon. Members, the said laws also confer certain privileges to Members of County Assembly whose violation attract defined sanctions. These integrity safeguards are put in place for state officers knowing that our duties are exercised in trust and the public on whose behalf we exercise power have great expectations.

Accordingly, Hon. Members, may I remind Members that during the inception of this Third Assembly, all Members bound themselves when you signed the code of conduct that is drawn from Leadership and Integrity Act, 2012 and you are required to observe and uphold the said code at all times. Any breach of the said code has dire consequences. I want to make it clear that going forward, actions of misconduct will not be tolerated and I will not hesitate to invoke the relevant sanctions should it be established that a Member knowingly conducted himself or herself in a manner contrary to the said code.

Hon. Members, you are so guided. Thank you.

(Applause)

REFUND OF INVALIDATED TAX CHARGED ON
MOTOR VEHICLES REIMBURSEMENT BENEFIT

Hon. Speaker: I still have another communication. Hon. Members you may proceed and sit down.

Hon. Susan, the Chair is on his feet please take your seat! Hon. Members who are at the entrance kindly proceed very fast and take your seats.

(Several Members walked into the Chamber)

(Applause)

Let me bring the House to order.

Hon. Members, I further have a communication to convey in regards to refund of invalidated tax charged on motor vehicles reimbursement benefit.

Hon. Members, good afternoon once again. You will recall that at the Assembly Sitting held yesterday Tuesday 31st October 2023, Hon. Kennedy Oyugi rose under Standing Order No. 59 (h) and requested the Chair to address the Assembly on the status of reimbursement of the invalidated tax charged on motor vehicle reimbursement benefit to Members of the County Assembly. Accordingly, I made an undertaking to guide the Assembly on the subject matter during today's Sitting.

Hon. Members, as you are all aware, vide a Gazette Notice No. 8791 dated 22nd July 2022 Volume CXXN No. 145, the Salaries and Remuneration Commission conferred the motor vehicle reimbursement benefit of Kshs. 2, 212, 000 to each Member of County Assembly. This benefit was accorded for purchase of a vehicle not exceeding 1800 CC and is payable once in a County Assembly term. Accordingly, the then car grant benefit was revoked.

Hon. Members, at the commencement of the implementation of the benefit in question, the Kenya Revenue Authority (KRA) deemed the car reimbursement a taxable benefit and all County Assemblies Service Boards were required to effect the same in accordance with Section 3 of Income Tax Act, Cap 470.

Hon. Members, in this regard, the said benefit was subjected to 30% taxation in line with Section 3 of Income Tax Act, Cap 470. Therefore, the computation brought the total tax to Kshs. 663,600 on each Member's car reimbursement benefit. However, Hon. Members, via Petition No. 4 of 2023, the County Assemblies Forum (CAF) filed a case in the High Court of Kenya seeking a declaration that Members of County Assembly car reimbursement amount does not fall within the ambit of Section 3 and 5 of the Income Tax Act, Cap 470 amongst others.

Hon. Members, upon hearing, Hon. Justice J.K Sargon sitting in Kericho High Court delivered a judgement virtually on 12th October 2023 to the effect that motor vehicle reimbursement amounts do not fall within the scope of the said sections of the income tax statute, hence the amounts are not taxable. Accordingly, the import of the said judgement is that Members of County Assembly should be refunded by the KRA the amount that was deducted as tax on car reimbursement benefit.

Hon. Members, by the time the said judgement was being delivered, the County Assembly had deducted and remitted to the KRA a total amount of Kshs 71,734,440.00. You will recall that at the time of disbursement of the benefit, we engaged the KRA and agreed on a plan where Hon. Members had option of either being deducted at once the full amount of Kshs 663, 600 or pay monthly installments through payroll deductions. Indeed, the amount already paid to the KRA for each Member reflects in individual Member's KRA P9 Form.

Hon. Members, in light of these new developments, I wish to inform the Assembly as follows:

1. That the Nairobi City County Assembly Service Board has found it justifiable that in line with the judgment delivered on 12th October 2023, Members of County Assembly should be refunded in full the monies deducted as tax on car reimbursement benefit;

2. That the Clerk has since written to the KRA requesting for the refund to each individual Hon. Member deducted amounts. In the meantime, for the Hon. Members who had opted for monthly installments, no further deductions shall be effected on the affected Member's monthly salary within the shortest time possible.

Hon. Members, the Assembly is so guided.

Before we move to the next Order, Hon. Members, I want this to come out very clearly that as the custodian, we must engage the KRA on our intentions to refund the monies so that we put in measures.

(Hon. Member spoke off the record)

Hon. Members, the request of Members is that we convene a *Kamukunji* today at the rise of the Assembly. I think that is in order so that we can explore more on this. I kindly request the Leadership to organize for that so that we are in concurrence. Thank you.

Clerk, next Order!

PAPER

THE NAIROBI CITY COUNTY REVENUE EXPENDITURE REPORT FOR FIRST QUARTER FOR FY 2023-2024

Hon. Speaker: Hon. Majority Leader.

Hon. Peter Imwatok: Hon. Speaker. before I lay the Paper, last time we had a communication where you directed that before Papers are laid before this Assembly, the relevant office should get a notification in advance on what Papers are to be laid. This trend has continued where I receive Papers to be laid in the Assembly on my desk...

Hon. Speaker: That is very wrong and is noted with a lot of concern.

Hon. Peter Imwatok: In case I am not there, I can be able to delegate to the Leader of Minority or any other Leader. It should come to my attention in advance.

Hon. Speaker, pursuant to Section 166 of the Public Finance Management Act, 2012, I beg to lay the following Paper on the Table of this Assembly, today, Wednesday 1st November 2023:

The Nairobi City County Revenue Expenditure Report for the First Quarter for the financial year 2023-2024.

Thank you.

(The Paper was laid on the Table)

Hon. Speaker: Thank you. I commit the said report to the Budget and Appropriations Committee.

STATEMENTS

REQUEST FOR STATEMENT REGARDING ILLEGAL PARKING OF LORRIES AND PSVS OPPOSITE MUTHURWA MARKET

Hon. Redson Onyango: Hon. Speaker, pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding illegal parking of lorries and PSVs opposite Muthurwa Market and the whole of Nairobi County.

Hon. Speaker, the Nairobi City County Transport Act, 2015 Section 46 provides that a person shall not park or permit a vehicle to be parked on a public road contrary to a traffic in a manner that impend to the flow of traffic.

Hon. Speaker, as you aware, Muthurwa Market is a very busy market with an increase of inflow and outflow of traders. Therefore, lorries and PSVs that are loading and offloading park across the market causing traffic jam.

Hon. Speaker, in the Statement the Chairperson should inquire into and report on:

1. Whether the County Executive has authorized lorries and PSVs to park

(Hon. Hashim Kamau spoke off the record)

Hon. Speaker: Hon. Hashim Kamau, that is a grave misconduct. Serjeant-at-Arms, please escort the Hon. Member out for the rest of the sitting.

*(Hon. Hashim Kamau left the Chamber
escorted by the Serjeant-at-Arms)*

(Applause)

Hon. Redson, you may proceed.

Hon. Redson Onyango: Hon. Speaker, in the Statement the Chairperson should inquire into and report on:

- i. Whether the County Executive has authorized lorries and PSVs to park in the said area; and
- ii. Measures that the County Government has put in place to ensure that lorries and PSVs do not park in unauthorized space.

Hon. Speaker: Thank you, Hon. Redson. Chairperson of the Transport Committee, make an undertaking.

Hon. Musango Maithya: We are requesting for 14 working days.

Hon. Redson Onyango: Hon. Speaker, I agree with the 14 working days, but he should respond to my other Statements which are over three months. Kindly note that.

Hon. Speaker: The Chair of the Implementation Committee to take up on that.

BUSINESS APPEARING BEFORE THE ASSEMBLY FOR THE
WEEK BEGINNING WEDNESDAY 1ST NOVEMBER 2023

Hon. Speaker: Hon. Nicholas Juma, on Statement by the designated Member on behalf of the Assembly Business Committee.

Hon. Nicholas Juma: Thank you, Mr. Speaker. Pursuant to Standing Order No. 47 (2) (a), on behalf of the Assembly Business Committee, I rise to give the following Statement regarding the Business appearing before the Assembly for the week beginning Wednesday 1st November 2023.

Hon. Speaker, the Assembly Business Committee met on Tuesday 31st October 2023 to allocate Business for the week for consideration by this Assembly. In that regard, allow me to brief the Assembly as follows: That,

1. Today 1st November 2023, under Order No. 8, the Assembly shall be considering a Motion by Hon. Peter Imwatok, the Leader of the Majority Party, pursuant to the resolutions made on Wednesday 11th October 2023 constituting Members to the Ad Hoc Committee to investigate the County local revenue collection system and administration;
2. Subsequently, on 2nd November 2023, under Order No. 8, the Assembly shall be considering a substantive Motion by Hon. Peter Maina Mwangi, Member for Uthiru/Ruthimitu Ward urging the County Executive to:
 - i. Engage the Ministry of Health and other relevant agencies towards implementing the national policy guidelines on suicide prevention in the County; and
 - ii. Introduce programs and interventions for suicide prevention and management in the County for consideration in the subsequent annual development plan for implementation.
3. On Tuesday 7th November 2023, the Assembly will be considering a substantive Motion by Hon. Ami Ambala urging the County Executive to conduct a mandatory mental health assessment of all its employees with an aim of sensitizing, diagnosing and recommending treatment.

Hon. Speaker, the Assembly Business Committee urges members of this Assembly to familiarize with the aforementioned Motion and prepare accordingly for debate, through the help of the Research Department. Details of the Motions can be obtained in the Notice Paper being the last page of today's Order Paper.

Hon. Speaker the Assembly Business Committee shall be informing this Assembly after every Assembly Business Committee Sitting, through its designee, on the allotted business during the Statement Hour for timely preparations.

Finally, Hon. Speaker, the Assembly Business Committee will again meet on Tuesday 7th November 2023 at the rise of the Assembly to ballot business for the subsequent week.

I wish to lay the Statement on the Table of the House. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Nick. Hon. Members, we are still under Order No. 7 on Statements. Is Hon. Peter Maina in the House? Hon. Maragu, you may proceed.

REQUEST FOR STATEMENT REGARDING PERENNIAL WATER CHALLENGES BY NAIROBI WATER IN KAREN WARD

Hon. Antony Maragu: Thank you, Hon. Speaker for the opportunity.

Pursuant to Standing Order No. 47 (2) (c), I wish to request for a Statement from the Chairperson of the Sectoral Committee On Water and Sanitation regarding perennial water challenges and rationing in the County by the Nairobi City Water and Sewerage Company Limited in the County, particularly Karen Ward.

Hon. Speaker, Article 43 (d) of the Constitution presupposes that every person has a right to clean and safe water in adequate quantities. Part II of the Second Schedule of the Constitution apportions water sanitation services function to the County Government. In the recent years, Hon. Speaker, parts of the County have been experiencing water shortage or complete lack of the commodity. For instance, at Mukoma Road in Karen Ward, there has been lack of water supply for the past one year due to disconnection by the Nairobi City Water and Sewerage Company.

Hon. Speaker, because of this disconnection, residents of Karen Ward along Mukoma Road are undergoing undue suffering due to lack of adequate clean water supply. This is despite the Nairobi City Water and Sewerage Company Limited developing a schedule on rationing of water across the County. Furthermore, the estates along the said road have connected water pipes. However, the residents are living without running water for approximately one year now. The lack of water has affected hundreds of households and businesses in the said area, which in turn poses a health hazard not only to the residents of Karen but also across the County and beyond.

Hon. Speaker, in the Statement, the Chairperson should inquire into and report on the following:

- i. Reasons by the Nairobi City Water and Sewerage Company Limited for not supplying running water to Karen Ward residents along Mukoma Road;
- ii. Measures the County Executive is taking to ensure residents of Karen as well as businesses are supplied with clean water in adequate quantities; and
- iii. Steps that the Nairobi City Water and Sewerage Company Limited is taking to ensure that all estates in Karen Ward have genuine water meters from the said company.

Hon. Speaker, thank you.

Hon. Speaker: The Chair for Water Committee, Hon. Redson.

Hon. Redson Onyango: 14 working days, Hon. Speaker.

Hon. Speaker: Hon. Maragu, are you in concurrence?

Hon. Antony Maragu: That is in order. Hon. Speaker

Hon. Speaker: Thank you. Let us proceed.

MOTION

ESTABLISHMENT OF AD HOC COMMITTEE TO INVESTIGATE COUNTY
LOCAL REVENUE COLLECTION SYSTEMS AND ADMINISTRATION

Hon. Speaker: Hon. Majority Leader, please.

Hon. Peter Imwatok: Hon. Speaker, Motion No. 8 by the designation of God, Hon. Peter Jateso Imwatok MCA, the great Leader of Majority of Nairobi City County Assembly, is to move the Motion. The subject is; Establishment of an Ad Hoc Committee to Investigate the County Local Revenue Collection Systems and Administration.

THAT, pursuant the Resolution made on Wednesday 11th October 2023, the County Assembly establishes an Ad Hoc Committee comprising of the following Hon. Members to inquire into the revenue collection system(s) adopted by the County Government: -

1. The Hon. Peter Imwatok, MCA
2. The Hon. Paul Kados, MCA
3. The Hon. Anthony Kiragu, MCA
4. The Hon. Jane Musangi, MCA
5. The Hon. Wilfred Odalo, MCA
6. The Hon. Silas Matara, MCA
7. The Hon. Nicholas Juma, MCA
8. The Hon. Fathiya Abdilahi, MCA
9. The Hon. Fredrick Njogu, MCA
10. The Hon. Carrington Heho, MCA
11. The Hon. Joyce Muthoni, MCA
12. The Hon. Diana Katile, MCA.
13. The Hon. James Karis, MCA.

Hon. Speaker, I want to start from the onset by quoting a philosopher by the name Musonias Rufus. *“If you accomplish something good with hard work, the labor passes quickly, but the good endures; if you do something shameful in pursuit of pleasure, the pleasure passes quickly, but the shame endures.”* This Philosopher speaks about what we can stand in life. As the mover of this Motion, I have a stand in life. For those who know my history, I share some peculiarities with the Speaker from our lives. Long time ago, I was a watchman for the Kenya Railways, a toilet cleaner in Makongeni Estate, and I used to sell jeans in Garissa Lodge. I have a slogan; *“If you cannot make money, make a name; that name one day will make you good money.”* That is my philosophy.

Hon. Speaker, I’m pursuing this Motion not for monetary gain as people want to put it. The essence of this Motion is to bring sense to the revenue system of our County. The wisdom of the Nairobi people bestowed on us under Article One of the Constitution that our oversight role should not be compromised by anyone. We took an oath of office last year in September in this Chamber to protect the Constitution and more so to exercise our overall role of oversight, legislation and representation.

Hon. Speaker, another philosopher said, *“It does not matter how slow you go, as long you do not stop.”* We have been slow but we have not stopped because the issue of revenue in this County is wanting. No matter how much the elected leaders are pondering on the issue of Ward Development Fund to be disseminated at the ward level, without revenue this is not possible.

Hon. Speaker, it has been a journey to understand where the servers of our revenue system are. Who manages our loans? Who audits these servers? I give credit to the Committee of ICT, you have done your bit. May be you could not bite as much.

I have received calls and persuasions that this Committee is not good and it is not the right thing as it will burn my fingers. Yes, it may burn my fingers but will not burn my toes to walk on. This Committee has the sweat and the blood of Nairobians in their hands. One of my friends walked in my office and asked me why I was too low. The burden of this Motion has been too heavy. May be it will cost some people lives, it is allowed in life. This Motion is not about Nairobi County; it has brought a lot of interests across the country from the highest office to the smallest office, I do not know why.

I was speaking to the Speaker and told him that I was contemplating to withdraw myself from this Motion but he was a bit hesitant to comment. I came across a quote which says; “*A hungry stomach, an empty wallet and a broken heart can teach you great lessons of life.*” That is my heritage as a Seventh Day Adventist. Everything I do in life must bring me some lessons, that is why my name has been retained as a Member of this Ad Hoc Committee.

I want to learn some lessons, and understand how a government can be run by a system that is collecting money that no one can explain where the logs are and much is collected. For the last one week, the Nairobi County Government has not collected revenue because all the systems are down. You can pay for services through M-Pesa, but who has these servers and the logs? Who manages the system and where is it physically located? Those are the lessons that I want to learn even if it is through the hard way.

History will say that Hon. Imwatok moved the Motion and ran away from it. Last week, somebody approached me in the streets and asked me; “*Have you been bought off the Motion because you have not brought it in the Assembly?*” I asked my Whip to extend the time for consultation based on what was happening in the UDA side so that the names can be brought in the House when it is in unison.

As I urge you to pass this Motion, Hon. Speaker and Hon. Members, I will be co-opting two Members as we move forward through amendment after the passing of this Motion so that you bring the most experienced Members of this Assembly in this Committee. Members who know the history, know during Gakuo’s time how the County was being ran and what happened.

Hon. Speaker, there are many experts who will come before this Committee to help us understand if this system is licensed by the Communication Authority of Kenya. I want to see this Committee summoning the KRA Director General in charge of Revenue. Does he know that the KRA is the one purported to develop this system? A committee under Article 195 of the Constitution is more or less as the High Court.

Hon. Speaker, these communications will come to your Office and the Clerk’s Office as this Committee starts its work. I also appeal to the Office of the Clerk to give this Committee the best brains that we have in the secretariat, be faithful to the people of Nairobi and not what they can get in their pockets. I am ready to learn the lessons and believe that the 13 Members and the two Members who are going to be co-opted are also ready to learn the lessons. As the son of Teso,

as my brother Hon. Alai tells me always, don't refer to it. That is my heritage as a Seventh Day Adventist.

I ask Hon. Diana Katile to second the Motion.

Hon. Diana Mwangangi: Thank you very much, Hon. Speaker. Much has been said by the Majority leader regarding the importance of this Ad Hoc Committee. This Committee is supposed to do justice not only for the Assembly but also for the residents of Nairobi County. We will summon the people that need to be summoned without fear or favour. This Committee will do the job it is intended to do to completion and I am certain that the work that will be done here will bring pride to this Assembly. With those few words, Hon. Speaker, I beg to second.

(Question proposed)

Hon. Speaker: Hon. Members.

Hon. Kennedy Oyugi: Mr. Speaker, have you given me the opportunity?

Hon. Speaker: Yes.

Hon. Kennedy Oyugi: I was afraid that you might shut me down. Thank you, Mr. Speaker for the opportunity to also contribute to this Motion. Mr. Speaker, initially I was adamant to support this Motion because I asked myself a number of questions. One among them was that we have the ICT Committee which the Mover has lauded for doing some excellent job. So, I was asking myself, if we have an ICT Committee which is competent and up to the task, why don't we bestow this responsibility to the ICT Committee? I did not get the answers. Again I asked myself, if the ICT is not going to give appropriate answers or will not offer solution to this problem, why can't it be referred to the PAC Committee? Again I did not find the answer. However, Mr. Speaker, I found it quite embarrassing to oppose my leader, the Majority Leader. For that reason, I want to support the Motion.

Mr. Speaker, I am seeking your indulgence if I can move an amendment.

Hon. Speaker: Hon. Member, maybe at least you get an opportunity to go through the Standing Orders in reference to the concern as raised. The Standing Orders does not allow you to raise amendments on the floor.

Hon. Kennedy Oyugi: Yes, I know I am late, Mr. Speaker. I would have done it in writing some few minutes before the session, but also remember...

Hon. Speaker: So, can you confirm to the House you have taken back your words?

Hon. Kennedy Oyugi: Mr. Speaker, you also remember that in the Order Paper, we are getting it right...

Hon. Speaker: Hon. Oyugi, please can you confirm to the Assembly that you have taken back your words?

Hon. Kennedy Oyugi: Mr. Speaker, your orders are always law to me. So, don't worry.

Hon. Speaker: Thank you. You may proceed by supporting the Motion.

Hon. Kennedy Oyugi: Thank you, Mr. Speaker. Waswahili have this saying, *Mgala muue na haki yake mpe*. My brother, Hon. Alai has been so passionate about the issues of automation in

this County, I would have loved and passionately appeal to the leadership, if it cannot be amended because of time constraints, find it appropriate to incorporate him. Hon. Alai has been so passionate about this subject. If we are forming an Ad Hoc Committee, with sincerity, I think Hon. Alai deserves to be in this Committee. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Oyugi, you stand guided. In the House of procedure, it is always upon the Members to move a Motion on amendments on any Bill or Motion. So, we still have the window.

Hon. Hon. Whip, please.

Hon. Moses Ogeto: Thank you, Hon. Speaker. I sincerely want to congratulate the Leader of Majority. He has quoted serious sayings and provided background over the same.

Hon. Speaker, the 13 Member men and women who have been put in this Committee, I believe they will share their experience. The Leader of Minority and Hon. Deputy Speaker are men and women who have been in this Assembly for the last 10 years. That is a decade, Hon. Speaker. I believe that their experience will be felt.

Hon. Speaker, I remember this system was created during the Nairobi Metropolitan Services' (NMS) time. When the Nairobi City County did the Deed of Transfer of the functions, the KRA took over the revenue collection. Hon. Speaker, I saw even a communique from the County Secretary referring to the media that the Assembly and the Ethics and Anti-Corruption Commission are willing to investigate, but Article 195 of the Constitution gives this Assembly a lot of powers because it is equivalent to High Court. Hon. Speaker, I believe the EACC will be patient enough so that they will be in a position to get the recommendations of this Committee.

Hon. Speaker, as it has been outlined well in Article 195 of the Constitution, this Committee, especially for my Membership, we considered gender. I can see even the Chair of Budget is a Member of this Committee. I believe that these Members will be in position to expedite the process within the timelines which they will be given to ensure that this happens. Some of the Members of the Committee, including the Deputy Speaker are vehemently ready to take the bite, as the Leader of Majority has said.

With those few remarks, I beg to support this Motion. Thank you.

Hon. Speaker: Hon. Waithera Chege.

Hon. Waithera Chege: Thank you, Mr. Speaker. Now that I stand guided that we cannot amend this document on the floor of the House, allow me to oppose.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! You may be seated. Maybe as the custodian of the statutes and the Constitution, I want the House to get it right from our Standing Orders; you may read with me Standing Order No. 62, Amendments to be in writing. But under the same Standing Order No. 62 (2):

“Despite paragraph (1), the Speaker may, in exceptional circumstances, allow a Member to move an amendment to a Motion before the Assembly at any time during consideration of that Motion.”

So, there is a window, but again the Chair must be persuaded that there is a need to adjust the number of the Membership of the Committee by the House. So, you stand guided.

Hon. Waithera, please.

Hon. Waithera Chege: I stand guided, Mr. Speaker. However, allow me to oppose this Motion, not on the subject matter but in the composition of the Membership of the Ad Hoc Committee. I want you to go with me to Standing Order No. 173 (2):

“In nominating Members to Select Committees, County Assembly political parties, the Committee on Selection or the sponsor of a Motion establishing a Select Committee other than those provided for under the Standing Orders, shall, as much as it is feasible, take into consideration the need for fair representation of the various political parties in the Assembly, the interests of independents, regional balance, gender and other special interest groups in County and shall ensure that not more than two-thirds of the nominees are of either gender.”

(Applause)

I have no issue with the sponsor of the Motion or the subject of the Motion, I have a problem with the composition of that Committee. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: For that reason, I have actually observed the list as it appears. Now that the Member has raised it under parliamentary practice, the Speaker is always blind until his attention is raised to a...

Hon. Peter Imwatok: Hon. Speaker, this Standing Order speaks about a Select Committee...

Hon. Speaker: Hon. Majority Leader, I am still on the floor. I have not even indicated the direction I am taking. I would want to give Members in under five minutes to interrogate the concern of Hon. Waithera Chege under Standing Order No. 173.

Hon. Members! Hon. Majority Leader, please.

Hon. Peter Imwatok: Hon. Speaker, I want not to differ with my sister in principles, but to differ with the subject matter of understanding this Standing Order. Standing Order No. 173 which she rightly quoted, subject to any written law.

“In nominating Members to Select Committees, County Assembly political parties, the Committee on Selection or the sponsor of a Motion establishing a Select Committee other than those provided for under the Standing Orders, shall, as much as it is feasible, take into consideration...”

Hon. Speaker, the creation of the Ad Hoc Committee must originate from the Liaison Committee which transmits and passes the numbers. If you look at our Standing Orders, I may not quote clearly, it says you cannot establish an ad hoc committee without passing through the Liaison Committee. This particular Committee was created...

Hon. Speaker: Clerk, kindly help the Majority Leader in highlighting the correct Standing Order.

Hon. Peter Imwatok: As the Clerk verifies the Standing Order, it speaks to the Select Committee which is already in existence and has given birth to this particular Committee.

Standing Order 211:

“(1) The Assembly may, by a resolution establish an Ad Hoc Committee for purposes of inquiring into a matter or matters specified in the resolution.

(2) A notice of Motion for the establishment of an Ad Hoc committee shall not be admissible unless presented together with a written recommendation of the Liaison Committee.”

The Liaison Committee is a Select Committee which has to establish an ad hoc committee. Standing no. 173 dissuades a Select Committee that form this to make sure it confirms to Standing Order No. 173 (2).

Hon. Speaker, when I tabled a Notice of Motion, the written HANSARD submission was, ‘We establish a 15 Member Committee.’ When we tabled a Notice of Motion, it was a 13 Member Committee. That is why I said in my submission, we will need to co-opt other Members who we feel historically are important for this County or create an amendment as you directed, Hon. Speaker.

Hon. Speaker: Hon. Majority Whip, kindly proceed.

Hon. Moses Ogeto: Hon. Speaker, I am also persuaded to support the Leader of Majority under that Standing Order No. 212 in line with other Standing Orders which have been prescribed in this. She has said that there is need to consider interests of independents and gender. If it is a matter of religion, we have a Muslim in that Committee, Hon. Fathiya Abdilahi. If it is a matter of gender, I have done calculations. In this 13 Member Committee, we have almost four women. A third of 13 is 4.1. I believe if you round off, that will be four 4.

Hon. Speaker, in matters of independent candidates, it is the discretion of the Speaker. No independent person has come to me as the Majority Whip or to my counterpart there to be incorporated as a Member of the Ad Hoc Committee. This is a resolution which was passed in this Assembly. I want to challenge independent candidates if they approached the Leader of Majority or the Leader of Minority to be part of Ad Hoc Committee. This House must be ruled with facts.

Hon. Speaker she has opposed this. Let her proceed with opposing so that she can galvanize the numbers in opposing this Motion. We have no problem. This Motion is for the benefit for the Nairobians. We want to investigate whatever is happening in the servers which are in Manyani. She must tell us if a third gender was considered. If it was, then we proceed. Thank you.

Hon. Speaker: Hon. Chege, why are you still on the floor? The Whip is on the floor. You may proceed.

Hon. Mark Mugambi: Thank you, Hon. Speaker. I also wish to echo the sentiments of my counterpart, the Majority Whip in regards to the composition of the same. I wish to confirm that none of the independent MCAs in this House has reached to me or to the office requesting to be added in the same Ad Hoc Committee neither in writing nor...

(Hon. Member spoke off the record)

No, don't say I am lying. I am affirming...

Hon. Speaker: Order! Don't engage the Member directly, please.

Hon. Mark Mugambi: Hon. Speaker, protect me.

Hon. Speaker: You are protected. Speak through the Chair.

Hon. Mark Mugambi: Thank you, Hon. Speaker.

Hon. Speaker: You may proceed.

Hon. Mark Mugambi: The key word here is independent because if it is about gender, we have achieved it. If it is about religion, it is represented. If it is about ethnicity, it is represented. Any Member that feels to have been shortchanged should produce evidence, especially the independent that they brought their concerns to either of our offices and it was overlooked.

Hon. Speaker on the same breath, the independent...

Hon. Speaker: The Member is on Point of Order, please give him time to conclude.

Hon. Mark Mugambi: The independent Members also are at the discretion if either of the Whips don't attend to their needs, they have the Speaker as a person they can always take their interests to for consideration. Maybe you can confirm to us if they brought their interests and we didn't consider them to be Members of the Ad Hoc Committee.

Hon. Speaker: Thank you for the confirmation. Hon. Chege Waithera, you may proceed and build your case.

Hon. Waithera Chege: Thank you, Chair. We are not questioning the process, I think the point that we are differing with my colleagues is, we are asking; do you satisfy the issue in Standing Order 173 (2) about fair representation, independent candidates and gender? All those things put together, that is where we part my dear colleagues. Today you might be in power but tomorrow you might be out of power.

(Applause)

Hon. Speaker: Hon. Member, kindly persuade Members to be in support of your position.

Hon. Waithera Chege: Mr. Speaker, Sir, we are addressing the question of fair representation, nothing else.

Hon. Speaker: You have all the right to oppose the debate, Hon. Chege Waithera, but please don't point fingers. There are no reservations here.

Hon. Waithera Chege: Mr. Speaker, I don't know where you read that.

Hon. Speaker: At the end of it, we will put a question, either side will take it. So, please whip the emotions of the proposers and those who oppose.

Hon. Waithera Chege: Mr. Speaker, we are not arguing for the sake of arguing. On our side for example, we have two independent candidates. We have looked at the list, there are other political dynamics that may not be satisfactory on the floor of this House but we will be able to discuss them even outside this Assembly. I am not going to political dynamics, but let us discuss Standing Order No. 173 (2) with all fairness. I want to plead with my brother, Hon. Imwatok that it is not too late, we can agree in this House that this can be suspended and we amend the document so that you bring it on the floor of the House tomorrow and we will all support. Thank you, Mr. Speaker.

Point of Information

Hon. Speaker: Hon. Matara. You want to inform the House or a Member?

Hon. Silas Matara: The House, Hon. Speaker.

Hon. Speaker: Hon. Oyugi, please sit.

Hon. Silas Matara: The same Standing Order 173, Hon. Speaker, we have three issues that we need to address as a House. First, it is expressly indicated in our Standing Orders that ad hoc committee is to be considered as a Select Committee. Number two, when you look at Standing Order 173(2) that our able Deputy Minority Leader is speaking about, on the issue of fairness, there is a word 'shall', but after the word, there is 'as much as it is feasible.' What that means, you have been able to achieve three quarters of fairness in terms of consideration of gender and representation of respective parties.

In as much as the Member has a valid point when it comes to representation of the independent Members, but in the same Standing Order, it is not expressed that the Members are supposed to make an application to the offices of the Whips. So to that effect, Hon. Speaker, we are supposed to learn from this experience. It is upon you to direct the Office of the Clerk to amend the Standing Orders to avoid a similar scenario in the future occurrence. You should find a way of how the Members of independent parties should be considered in future. But in terms of fairness in the list, it has been met because three quarters of people who are supposed to be in the Committee have been met.

Hon. Speaker: The information is taken.

Hon. Silas Matara: Thank you.

Hon. Speaker: Hon. Alai, you may proceed.

Hon. Robert Alai: Thank you, Hon. Speaker. Since I have been mentioned in this debate, I don't want to involve myself in the debate so that I don't have a conflict of interest or undue interest. I just want to remind our able Minority Whip that he is setting a very bad precedent when he says that independent Members must show interest. Tomorrow, you will say that you will not nominate women unless they show interest. You cannot start that.

(Applause)

Hon. Speaker, I beg that you protect the interest of all the stakeholders represented in this House. The Standing Order should not be amended as the Hon. Member is saying for the

independent Members to show interest. The interests, the custodian, the rule and the spirit of fairness must be protected by the Office of the Speaker. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Alai, the House stands guided. Hon. Jared Akama.

Hon. Jared Ondieki: Hon. Speaker, I don't know why the Majority Whip whenever I am given the opportunity, he...

Point of Information

Hon. Speaker: Hon. Whip, you may proceed.

Hon. Jared Ondieki: You know the Majority Whip...

Hon. Speaker: Please, the Whip is on the floor.

Hon. Moses Ogeto: Hon. Speaker, thank you so much. Hon. Akama, the Chairman of Justice and Legal Affairs Committee, I believe justice will be served before this Assembly today. I wanted to inform you, Hon. Speaker, under Standing Order No. 173 again on fairness. We have 26 Committees in this House and we have three independent candidates. I know in the House Business Committee we have an independent Member nominated courtesy of the Minority side. Those are facts you can't run away from. If we may consider the question of fairness as it has been raised by Hon. Chege Waithera, will all these independent candidates sit in all the Committees? If that is fairness, then I would wish the same fairness be applied in all Committees.

(Applause)

Hon. Speaker, fairness cannot be skewed to satisfy the egos of some individuals in this House. We can't.

(Applause)

Hon. Speaker, the same Standing Order has given...

Hon. Speaker: Hon. Whip, kindly use Parliamentary language. Kindly withdraw 'egos of Members.'

Hon. Moses Ogeto: Hon. Speaker, I withdraw the word 'ego' and replace with 'the desire of these Members.'

Hon. Speaker the same Standing Orders has given Members an authority of serving two Sectoral Committees and one Select Committee. Then a question comes in; will these independent Members serve in all the 26 committees? Is there fairness? Hon. Speaker, the question of fairness...

Hon. Speaker: Whip, kindly conclude that debate.

Hon. Moses Ogeto: Even in the National Assembly we have about 26 independent Members. They have agreed to work with other political parties to ensure that they fit. In this Assembly, Hon. Joel Munuve is an independent Member who works closely with Azimio La Umoja-One Kenya Alliance...

Hon. Speaker: Your message is home, Hon. Whip, thank you. Hon. Akama, you may proceed.

Hon. Jared Ondieki: Thank you very much, Hon. Speaker. I want to exonerate myself from the direction the debate is going and basically look at the bigger picture in this case. I to support this Motion by the Majority Leader.

I feel sad because I was in the Second Assembly when the Motion of giving the KRA the power to collect revenue on behalf of Nairobi County was done. I want to bring to the attention of the House because of the institutional memory. The Motion to pass the KRA as a collector of revenue for this County was passed in a record of five minutes in this House without Members being given an opportunity to process and even evaluate the pros and cons of giving a National body to collect funds for a County.

I urge this Hon. House to really overcome this kind of action and wherever a serious Motion just like this is brought to this House, it should be taken with a lot of attention so that we avert ourselves from this situation we find ourselves in. I believe that reason why there are financial constraints even to finance this Hon. House is because of the challenges we are having as a County in terms of collecting revenue.

Hon. Speaker, there is something I was following last week because my Members had not been paid their per diem for a retreat in Mombasa. I took interest when the work plan was taken to the COB. I noticed that it was taking this County a record of eight days to collect Kshs.12 million. When I enquired further – and this is very serious and I am happy that this House has risen to the occasion to give justice. This word ‘justice’ has been used by my Majority Whip. Let us for once ensure that we are giving justice to the people of Nairobi. This House sits as the godfather and godmother of this great County. I am happy today that we have risen to the occasion to ensure that the revenue collected by Nairobians is not lost; that is the bigger picture.

I want to invoke the words of Museveni in early 80s when he was a revolutionary. He said, *"It doesn't matter whether a cat is white or black, as long as it catches mice."* The most important thing to me is when this Committee Ad Hoc Committee has been constituted. Hon. Speaker, in the last Assembly for instance, we had a common denominator called *kipindi*. It is the words of *kipindi* that brings us where we are today. I want to believe that the Ad Hoc Committee which is being constituted today will rise to the occasion above *vipindi* and ensure that Nairobians get value for the money they remit to this County. That is the bottom line.

Hon. Speaker, mine is to wish the Ad Hoc Committee all the best. But ensure that we are watching and we expect nothing other than giving justice to the people of Nairobi. Otherwise, I support the Motion. Thank you very much.

Hon. Speaker: Thank you. Hon. Dr. Wilfred Oluoch Odalo, your mic is on. Hon. Joyce.

Hon. Joyce Kamau: Thank you so much, Mr. Speaker. Mr. Speaker, you cannot ignore the important issues that Members have raised. I was just checking....

Hon. Speaker: Order, Hon. Member! Please can you correct your statement?

Hon. Joyce Kamau: Which statement?

Hon. Speaker: The Speaker does not ignore any concern of Member.

Hon. Joyce Kamau: I am speaking to myself, that I cannot ignore.

(Laughter)

Hon. Speaker: Okay.

Hon. Joyce Kamau: Mr. Speaker, I was looking at the composition of Members in Committees and I have noticed that we have one Member called Hon. Anthony Kiragu who is sitting in eight committees of this Assembly. This Ad Hoc Committee will be his ninth committee, and, Mr. Speaker, we have an independent Member like Hon. Francis Kimondo who has only three committees in this House. I think it is only fair to include everybody. We cannot have a Leader who is sitting in many committees while other Members do not have enough committees. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: Thank you. Hon. Anthony Kimemia Gathumbi.

Hon. Antony Gathumbi: Thank you very much, Mr. Speaker for according me this time to speak. So much has been said by my fellow Members, including *Mheshimiwa* Akama. I think he was reading the notes I have been writing here.

Mr. Speaker, I first want to know the issue of Hon. Waithera Chege, whether it is the issue of the composition. The Standing Order 173 has been conclusive...

Hon. Speaker: Order, Hon. Member! Please, confine yourself to the Motion. Don't take us back to the...

Hon. Antony Gathumbi: I just wanted to guide the House because if...

Hon. Speaker: Please, are you in support or opposing the Motion?

Hon. Antony Gathumbi: Well, I support the Motion for these reasons...

Hon. Speaker: Please raise your points.

Hon. Antony Gathumbi: Thank you. I thought as a Member of the Speaker's Panel, I would guide the House. I will continue and support the Motion. I have a live situation that is going on in the Executive. Today, residents of Buruburu Estate were given notices to vacate their houses within seven days because they have not paid their rent. But when you look at their accounts, they have paid all the rent. When they came to the Executive to find out what was going on, all the systems had broken down. So, we do not know if it is by design or by default.

Therefore, I take this opportunity to send this Ad Hoc committee to find out what is happening in this County. As it is now, for example, when you go to Planning Sector, all the monies cannot be seen where they have gone to. Also in Housing Sector, every amount of money is not known where it is going to. So, Mr. Speaker, the House has done well to institute this Ad Hoc Committee. I support that they move with speed.

As a Member mentioned here, we have ad hoc committees that have come to report here quickly. What they have said is passed. That is why we failed and we moved to the KRA without knowing. We want them to give this House an opportunity to discuss that report as it comes so that it does not come with hidden agendas. Thank you very much, Mr. Speaker. That is my take.

Hon. Speaker: Thank you. Hon. Gathahu.

Hon. Sospeter Mumbi: Thank you, Hon. Speaker for this opportunity. I also thank the Hon. Members who have raised concerns with regard to the independent candidates. We really appreciate for the demonstrative solidarity.

Hon. Speaker, I do not have a problem with the Motion itself; I am only having an issue with the constitution of the Committee.

Hon. Speaker: Are you in support of or opposing the Motion?

Hon. Sospeter Mumbi: I am not in support.

Hon. Speaker: You are opposing the motion?

Hon. Sospeter Mumbi: Yes. But based on the constitution of the Committee.

Hon. Speaker: Proceed.

Hon. Sospeter Mumbi: Thank you, Hon. Speaker. From where I sit, I understand your role as the custodian of the Standing Order in this Assembly. I also acknowledge that the various representatives of the parties are elected to serve as safeguard and to look into the issues of their respective parties. In that regard, that is why the Standing Order is very clear that, we, the independent candidates, remain under your mercies and guidance, Hon. Speaker. As such, in the constitution of this Committee, and including the House Business Committee and any other committee in this Assembly, it is within your discretion to scrutinize the said committee to ensure that the spirit of the Standing Order is well taken care of. The Standing Order 173 is categorical that the independent Members shall form part of it. On Standing Order 167 on the Constitution of the Nairobi City County Assembly Business Committee, again the aspect of the independent Members is clearly captured.

Allow me to enlighten Hon. Majority Whip that my inclusion in the House Business Committee – I do not know how I got there – but I have the right based on the Standing Order to form part of that particular Committee.

(Applause)

Hon. Speaker, I will also refer you to Standing Orders 202, 173, and 167. The spirit is on the inclusion of the independent Members in various committees and in the business of the Assembly. You need to give guidance on the constitution and the list that has been tabled in this House to ensure that the spirit and interests of the independent Members are catered for. Members, I do not mean that I want to form part of this list, kindly I am standing on behalf of the three independent Members and also other independent Members that will form part of this Assembly moving forward. Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Hon. Kennedy Oyugi.

Hon. Kennedy Oyugi: Mr. Speaker, thank you again for the opportunity. I want to narrow myself to Standing Order 173 (1) in this debate. Mr. Speaker, we need to be alive to the fact that we are all human beings, and any human being can make a mistake. If I make a mistake as a human being, I only need to lend an ear.

Hon. Speaker: Hon. Member, you can only do the Hon. House a favour by either supporting or opposing before you make a...

Hon. Kennedy Oyugi: Mr. Speaker, I want to believe that I am a sane person. Let me debate, and within the debate I will make an informed decision. At the end of it, I will make a decision.

Hon. Speaker: Okay, thank you.

Hon. Kennedy Oyugi: Mr. Speaker, Standing Order 173 (1) talks about the formation of special committees, and here we are supposed to do not less than 11 and not more than 17. It is true that this Committee was formed, but there were lapses. I want us to agree that let us not pass this baby as it is ours. Let us only agree that there are lapses. Time is on our side; we can make that correction. It is true that the members of the independent in this Assembly were not taken care of. So, it is incumbent upon us to accept and include even one member of the independent in this Committee.

Hon. Whip was narrowing as if Hon. Waithera was contesting the formation from all the committees, which is not true. We are on a specific one, the special Ad Hoc Committee. Honestly, how do you expect three Members to serve in all the 19 or 20 committees? It is not possible. So, let us narrow our debate on this special Ad Hoc Committee. I would like to plead with the Majority Whip, Majority Leader and all the Leadership of the House, let us do what is just and what is right, include the Members of independent, even one of them.

(Applause)

Mr. Speaker, the argument that a specific group did not show interest; who told my Majority Leader or my Majority Whip that I never wanted to be in that position? Was he was expecting me to go and lobby?

(Laughter)

I think in their own wisdom, they thought that the Hon. Members that were included in those committees have the capacity. So, if you expect Hon. Members to go and lobby, it is wrong. Wherever you are as a leader, bear in mind that you are representing different interest groups, including independent Members.

Mr. Speaker, I am supporting the Motion, but with the inclusion of doing what is right. Let us include this group that was left out. I want to believe it was not intentional. Kindly, Majority Leader and Majority Whip, let us do what is expected of us. Thank you.

(Applause)

Hon. Speaker: Hon. Members of the Assembly, I do not want to get involved in the debate because that is not by space, but I just want to guide the proceedings. If you are keen enough, you may understand at some point I had quoted Standing Order 62 (2), which gives the Speaker and the Hon. House an opportunity to move a Motion of Amendments. Here I read,

“Despite paragraph (1), the Speaker may, in exceptional circumstances, allow a member to move an amendment to a Motion before the Assembly at any time during consideration of that Motion.”

Hon. Members, that is all what the Chair expects from you. I cannot move an amendment, I expect it to come from the Members and dispense it before the plenary so that we can put a question. I hope the House is now guided. Hon. Fiunifiu.

Hon. Kamau Fiunifiu: Thank you, Hon. Speaker. I am happy that a lot of Members have pronounced themselves on the composition of this Committee. The composition is important because we are going to have a good output. But, Hon. Speaker, the independent Members...

Hon. Speaker: Hon. Member, you are out of Order! Please, let us read from the same script. I have just made a pronouncement on the same issue you are raising.

Hon. Kamau Fiunifiu: Thank you, Hon. Speaker. I want to help this House...

Hon. Speaker: Hon. Member, you may be seated. Can we get a Member under Standing Order 62 (2) to move a Motion of Amendments so that we can rest this case?

Hon. Speaker: Hon. Waithera Chege, please.

Hon. Waithera Chege: Thank you, Mr. Speaker, Sir. Allow me to move an amendment to allow Hon. Sospeter, Hon. Waithera Chege, Hon...

Hon. Speaker: Kindly refer to the relevant Standing Order, which is No. 62 (2).

Hon. Waithera Chege: [Editor’s note: words expunged]

(Applause)

Hon. Speaker: Hon. Waithera Chege, please, just make proposed amendments on the composition, but you do not propose the names. Let the Members consider the adjustment on the number of the Memberships. Correct that, and it be expunged from the HANSARD. Hon. Waithera Chege, please rephrase your point of amendments.

Hon. Waithera Chege: Thank you, Mr. Speaker. I want to propose an amendment:

THAT, four Hon. Members be co-opted into the Ad Hoc Committee to investigate the County Local Revenue Collection Systems and Administration. Thank you, Mr. Speaker.

Hon. Speaker: Can you propose someone to second your Motion, please?

Hon. Waithera Chege: Mr. Speaker, I want to request Hon. Oyugi to second. Thank you, Mr. Speaker.

(Hon. Moses Ogeto raised a Point of Order)

Hon. Speaker: You cannot rise on a Point of Order before the Member seconds the motion.

Hon. Kennedy Oyugi: Thank you, Mr. Speaker for the opportunity again to second this Motion. I am rising to second this Motion of Amendment. The Standing Orders allows us to have 17 Members. As it is here, we have 13 Members. So, the proposal of having 14 Members is within the Standing Orders. We will have a maximum of 17 Members. For that reason, Mr. Speaker, I second.

(Applause)

Hon. Speaker: Hon. Members, under Standing Order No. 62 (2):

“Despite Paragraph (1), the Speaker may, in exceptional circumstances, allow a Member to move an amendment to a Motion before the Assembly at any time during consideration of that Motion.”

For that reason, Hon. Members, I allow the debate on Standing Order 62 (2). Hon. Whip, please.

(Clerk-at-the-Table consulted the Speaker)

Hon. Moses Ogeto: Hon. Speaker, today may be a sad day...

Hon. Speaker: Hon. Majority Whip, please. I have I have proposed the question under Standing Order 62(2), maybe the Clerk did not get me right. And I have given the Whip an opportunity.

Hon. Moses Ogeto: Hon. Speaker, it may be a sad day this afternoon at around 4.31 p.m. on a Wednesday. I have never seen anywhere in Parliament a Member proposing herself on the same Motion. That is a conflict of interest under Standing Order 95.

(Applause and loud consultations)

Hon. Speaker: Order! Hon. Chege Waithera, kindly be seated. Hon. Majority Whip, the Member already withdrew the intentions and the chair instructed the Clerk to expunge it from the HANSARD, so, please do not base your argument on that. Are you for the amendments or against?

Hon. Moses Ogeto: Hon. Speaker, I oppose the amendments.

Hon. Speaker: Thank you, proceed.

Hon. Moses Ogeto: Hon. Speaker, the powers conferred to me under Standing Order 23 as the Majority Whip of the Azimo la Umoja-One Kenya Alliance to appoint and nominate Members to the Committee. Hon. Speaker, the Hon. Member has taken powers from the Majority Whip and appointed Hon. Robert Alai to this Committee without me nominating under Standing Order No.168. So, Hon. Speaker...

Hon. Speaker: Hon. Majority Whip, please don't mislead the Assembly. The nomination of any Member to sit in a committee remains a reserve of the whips. The pronouncement made by the Hon. Waithera Chege is null and void. It remains on the ambits of the Minority Whip and Majority Whip to nominate Members to sit in the said committees. What we are doing here is making an adjustment to the composition of the Membership and not naming Members who are supposed to sit in the committees. Let it be very clear; the names should not be included right now, but they should be relayed by the relevant Whips to the Selection Committee.

Hon. Peter Imwatok: Hon. Speaker, respectfully with a lot of humility, let us not destroy the spirit of this Motion. Even if we can put all the 123 Members, for me as the mover, I am okay. The Speaker has given a direction to the House under Standing Order 62 (2), and a Member has proposed amendments. What we should debate now is the addition of the Membership. I don't care about the numbers as the mover. Let us also allow the Whips to exercise their jurisdiction. That is what the Speaker has overruled. Therefore, the debate is whether you oppose the

amendment to include Members in this particular Motion or not, so that we narrow ourselves into the substratum of the amendment.

As the mover of the Motion, I will not care, but I will also guard the independence of the specific offices. No one shall appoint herself or himself to a specific committee. Those two parameters, I am in respect to it; respecting the particular offices and respecting the substratum of the debate.

If today this House in its wisdom decide to convert this Ad Hoc Committee into the Committee of the Whole House and we are in agreement, that is good as long as the Nairobians understand where our servers are. Who opens them and locks them at 6.30 p.m. every evening? Who declares how much comes to the County? That is the substratum of this Motion. The numbers are neither here nor there. Now that the amendment has been moved of increasing the numbers, can we as Hon. Members dissuade ourselves from other – Sorry, Mr. Speaker, you will tell me to withdraw.

Allow me to stop there and ask my colleagues that it is not us, our mothers in hospitals need money to buy medicines. Our Ward Development Fund of Kshs. 1.9 billion – the Chair of Budget is here, yesterday together with the CECM of Finance, the CFO and the Members of WDF, we realized we had a deficit of Kshs. 2.7 billion to realize our development agenda in our respective wards. We passed three weeks ago a Finance Bill which was increasing our revenue by Kshs.16.5 billion. So far, we are collecting less than Kshs.10 million a day in the Capital City of Nairobi, compared to Kirinyaga County. Is it something that we can debate about who is there or who is not? It is about the wisdom of this House.

We need to now leave the Whips to make their own wisdom as per the rule. If the Whip decides Hon. Alai does not deserve to sit in this Committee, that is his function. If Hon. Roro feels that there is inadequacy in Hon. Waithera Chege to be a Member of this Committee, that is his own discretion. If the Whip feels Hon. Majiwa does not deserve, it is at his own discretion.

As the Leader of this House, I have never interfered with any institution neither will I interfere with the offices of the Whips. Kindly, Hon. Speaker, let us go to the substratum of the Motion, which is; are we increasing the four Members across the aisle or not?

Hon. Oyugi has said categorically the number to be increased to 17 which is dictated by the Standing Order on the Select Committee. If so, we can put a question whether we increase the number or not, and leave the Whips to do their part.

(Applause)

Hon. Speaker: The Hon. Whip, please.

Hon. Moses Ogeto: Thank you, Hon. Speaker. I really do not want to differ with my Majority Leader. I want to bring to your attention on Standing Order No. 61 (5). Hon. Speaker, I would like you to take the Members through that Standing Order. We have no problem increasing the numbers. This motion was passed and no Member at that time stood up to propose increase in the numbers. We cannot go back after this House ensured that the Motion was passed. The only

thing which was missing in the Motion was the names. In amending this Motion, which words do you want to be amended? We are the protectors of the Constitution, the Standing Orders and the Statutes of the law. We are unable to fulfil the desires of few individuals to destroy the purpose of this Motion. I want you to read what the Standing Order 61 (5) says.

Hon. Speaker: Hon. Jera.

Hon. Samson Ooko: Thank you, Hon. Speaker. I rise to oppose the amendments to this Motion because we are setting bad precedence in this House. That, when Ochieng Jera does not support, I go around lobbying other Members to oppose.

Hon. Speaker, I wish... Hon. Whip, you have spoken here seven times. I wonder what is wrong with people. I am saying we are setting bad precedence because when a team feels like they are not included in the list, they complain. What will happen tomorrow when a team from the forest again complains that they are not on the list?

(Applause)

We must be guided by the rules that we are talking about. The problem in this House is that some of the Members who are new are believed not to understand the Standing Orders. Let it be made clear today that once the Whips have been given the authority to bring the list, just like the coaches who prepare the list of the players who are going to play, we must respect that.

(Applause)

Mr. Speaker, they are representing this House, and any report that will be brought by the Committee will be reported back to this House. The collection of revenue in this County has been so poor and something needs to be done. I am certain that the people who have been selected to this Committee are men and women of integrity. Let us give them a chance to serve us. Otherwise, the next thing we are going to do is demand that my name be put. Where are we heading to?

Mr. Speaker, Sir, kindly, I oppose the amendment to this Motion. Thank you.

Hon. Speaker: Hon. Whip.

Hon. Mark Mugambi: Thank you, Hon. Speaker. I wish to echo the sentiments of my counterpart. If we indeed feel that the Committee is under composed, can the mover of the Motion withdraw then we go back to the motion itself, and then go back to Liaison Committee so that we can start afresh? We bring the Motion on the formation of the Ad Hoc Committee here and the addition of Members from 13 to 17, if it so pleases the masses so that we do not perform illegality to satisfy the desires of those who deem that their interests are not taken into consideration.

Hon. Speaker, as we speak, we have already passed that stage. The addition of these Members would have come during the plenary session when we were debating the formation of this Ad Hoc Committee. That is when we could have adjusted the numbers from 13 to 17, but we did not do that.

Hon. Speaker, the Motion in front of us is very clear, either you support the names listed here or you don't.

(Loud consultations)

Hon. Speaker: Order, Hon. Members!

Hon. Mark Mugambi: AS I finish, Hon. Speaker, for the Members that feel that the composition is not right, we can proceed. The mover can allow us to fail this Motion so that we can bring it at later date when it will have the composition of all those that feel they have been left out. Alternatively, we can also decide to discuss the affairs of this as a Whole House so that no Member will feel like they have been left out in one way or another. We have Muslims, Nubians, Catholics, and other many groups here.

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Let us not make mockery out of the debate.

Hon. Members, by leave of the Chair, you were given an opportunity to ventilate on the Motion, but subsequently, you need to understand we have a substantive Motion appearing in the Order Paper, which takes the first precedent. For that reason, Hon. Members, I call the mover of Motion No. 8 to reply.

(Applause)

Hon. Peter Imwatok: Hon. Speaker, I kindly seek guidance, do I reply to the Amendment of the Motion or to the Substantive Motion?

Hon. Speaker: I have said Substantive Motion No. 8.

Hon. Peter Imwatok: Hon. Speaker, my life has always been defined by a sense of controversies since birth because I believe in feeling the temperature of the situation. Hon. Speaker, I still repeat that we have all the interests of Nairobi, that is why I am quiet. I wish I could show you how my phone is ringing and what has been happening from yesterday because of this Motion. The interests are beyond us, but we must salvage Nairobi County. Let us not reason with our emotions on this, let us reason with the interests of Nairobians.

The Speaker walked into my Office and I told him that I was getting off, but he never responded. When I remained alone in my office toilet, I asked God if this was the right thing to do. I would have absconded my duty. Members, including the Chairman of Budget here told me “Leader, hold on.” If you look at my eyes, I have not slept since yesterday. I was wrestling between what is right and what is wrong, and what is just and what is unjust.

Just like Jesus Christ came from heaven to save the world, someone somewhere has to stand in the gap of men who cannot speak, and we are the ones. If this Motion goes through, this will be our baby. As I said, the Committee has many ways it can cure all you have said.

Hon. Speaker, thank you. I was in the First Assembly and such debates could not be allowed. That is why I was very quiet, this is healthy for this House. Let us not make the Assembly an assembly of speechless men and women; let the people speak. But beyond this red carpet, we are all the Hon. Members of the County Assembly of Nairobi.

In the National Parliament, you will never find such a debate unless it is in the interest of the National Government, I can attest that to you. Who is debating in the interests of the County

Executive here? We are all debating on the interests of the people of Nairobi. I know even the Fourth Estate is surprised at how the debates go from one corner to the other.

As I reply, Hon. Minority Whip, you know me in history, I have never withdrawn a Motion in my life. It has never happened. You can go on YouTube and look. What I place before the Chamber, let it die a natural death or let me execute it and I remain alone. History is not comparable to how many you are; it is only about you.

In the mountain of Patmos, a disciple was told to recant Jesus Christ, but he said, “*What do you want to do to me? You want to go throw me there? Please, do it.*” But I know this House cannot throw out what is right for the people of Nairobi. Hon. Speaker, you are doing us justice, Thank you.

Hon. Speaker: Thank you very much.

(Question put and agreed to.)

ADJOURNMENT

Hon. Speaker: Hon. Members, the Assembly adjourns to tomorrow, Thursday 2nd November 2023 at 2.30 p.m.

The House rose at 4.55 p.m.