

REPUBLIC OF KENYA
MURANG'A COUNTY ASSEMBLY
THE HANSARD

Wednesday, August 1 2018

The House met at 2:45 p.m.

[The Speaker (Hon. Nduati Kariuki) in the Chair]

PRAYERS

STATEMENTS

REQUEST ON STATUS OF ALCOHOLICS REHABILITATION PROGRAM

Hon. Ruoho Wangechi: Pursuant to Standing Order 46 (2) (c), I hereby request for a Statement from the Chairperson Health Services Committee on the following;

1. Is the Chairperson aware that there was an alcoholics' rehabilitation program at Ihura Stadium in Township Ward in July 2015?
2. Can the Chairperson provide this Assembly with information on the number of alcoholics enrolled in the program by name, age and gender?
3. How successful was the program?
4. What measures were taken to ensure that the recovered alcoholics settled down are earning a living and that they will not relapse?
5. Where is the physical location of the recovered alcoholics and which social and economic activities are they currently engaged in?
6. How much money was spent for the entire program in that financial year?
7. Why did the County Government discontinue with the program yet the problem of alcoholism is still persistent in our County?
8. Is there a permanent rehabilitation center in Murang'a County? If yes, where is it located, what is the enrollment rate and is there a policy on running of the rehabilitation institution

Thank you Mr. Speaker,

The Speaker (Hon. Nduati Kariuki): Chair Health?

Hon. Kibe Githuka: I am aware there was a rehabilitation in the month of May 2015 but I will request Hon. Ruoho because by then there was another regime that was in the Assembly, to give 14 days from the dates we are going to resume from the recess. Thank you Mr. Speaker Sir

The Speaker (Hon. Nduati Kariuki): Hon. Ruoho?

Hon. Ruoho Wangechi: That is in order Mr. Speaker

MOTION

ADOPTION OF REPORT OF THE HOUSE BUSINESS AND RULES COMMITTEE
ON AMENDMENT OF THE STANDING ORDERS

Hon. Erick Kimani: I beg to move a Motion;-

That this Assembly adopts the report of the Select Committee on House Business and Rules on proposed amendments to the County Assembly Standing Orders, laid on the Table of the Assembly on July 31, 2018.

Mr Speaker, I wish to be very brief, members are aware yesterday I tabled a notice of Motion and I am very sure members have gone through the report and are aware of the contents in the report, but Mr. Speaker, briefly the House Business and Rules Committee in the second Assembly undertook a third review of the County Assembly Standing Orders.

Pursuant to standing order 165 (g) and 244 the Committee considered the Standing Orders and has compiled a report on the same.

Mr. Speaker, terms of reference: one is to identify inconsistencies in the County Assembly Standing Orders and align them with existing statutes. Two, to make recommendations on the proposed amendments to the County Assembly Standing Orders. The Committee constitutes of 21 members,

The mandate of the Committee on House Business and Rules is derived from Standing Order 165 (5). One of the mandate is to prepare and, if necessary, from time to time adjust the Assembly calendar with the approval of the Assembly, another one is to monitor and oversee the implementation of the Assembly business and programmes, another one is to implement the Standing Orders respecting the scheduling or programming of the business of the Assembly and the functioning of the Committees of the Assembly. Number four is to determine the order in which the reports of Committees shall be debated in the Assembly. The Committee may take decisions and issue directives and guidelines to prioritize or postpone any business of the Assembly acting with the concurrence of the Leader of the Majority Party or the Leader of the Minority Party, as the case may be.

Number six, the Committee may consider such matters as may from time to time arise in connection with the business of the Assembly and shall have and perform such powers and functions as are conferred on and ascribed to it by these Standing Orders or from time to time by the Assembly. They can consider and report on all matters relating to these Standing Orders. Also, the House Business and Rules Committee may propose amendments to these Standing Orders and any such amendments shall upon approval by the Assembly, take effect at the time appointed by the Assembly.

The House Business and Rules Committee may propose rules for the orderly and effective conduct of Committee business and any such rules, shall upon approval by the Assembly, continue in force until amended or repealed by the Assembly. Final but not the least any rules approved under paragraph (5) shall be annexed to the Standing Orders and shall be binding upon Committees to the same extent as these Standing Orders.

Mr. Speaker, we wish to acknowledge this report was considered at length by the Committee in a sitting held on 27th July, 2018 in Nairobi, and the resolution to adopt this report was reached unanimously by members of the sub-committee.

Maybe on that note, the report that was adopted by the Committee was signed by the majority of the members. The Committee wishes to sincerely thank the Offices of the Honorable Speaker and the Clerk of the County Assembly for the support and services extended to the Members to enable the Committee complete this report. I am grateful for the Members of the Committee as well, for their diligence, commitment and competence in the completion of this task. On behalf of the Committees, I now have the honour and pleasure to present this report to the House for consideration and adoption. I think this one is to consider laying this report on the Floor of the House for adoption.

Let me not go through the background of the Committee. Also the members have the report; I will not go through the introduction. Let me go straight to the annex number five on the Committee findings.

1. That the Standing Orders are subordinate procedural laws hence cannot create a constitutional office. In this regard, the office of 'Deputy Speaker' does not exist and is therefore null and void.
2. That the matter of 'Deputy Speaker' in County Assemblies is extensively being discussed at different levels of National and County Governments. Further to that, the County Governments (Amendment) Bill, 2017 has expressly provided for the office of the 'Deputy Speaker', this is the proposal which has not been adopted

- either in the Senate and the National Assembly. However the Bill is yet to be enacted and agreed upon in the Senate and the National Assembly.
3. That Article 178 (2) of the Constitution of Kenya, 2010 is silent on the title of the member elected to preside over the Assembly in the absence of the Speaker. In this regard, the County Assembly Standing Orders cannot designate a substitute title for that member since it would still be challenged in a court of law. Such substitute titles include, 'acting Speaker', 'chairperson of Committees', 'temporary Speaker' 'Chair of Chairpersons' and so on.
 4. That there is no vacuum on who can preside in the House in the absence of the Speaker, since there is a Chairpersons panel in place to undertake the duties of the Speaker in plenary in his absence. The Chairpersons Panel is elected by the House pursuant to Article 178 (2) of the Constitution of Kenya, 2010 and standing order No. 18 and derives a lifeline from these provisions.
 5. That there is a vacancy in the position of Chairperson of the Liaison Committee which was previously Chaired by the Deputy Speaker as an extension of the office of the Speaker.

The recommendations of the Committee Mr. speaker:

1. That the House adopts this report and the schedule of proposed amendments to the County Assembly Standing Orders.
2. That in complying with the court order declaring the office of the Deputy Speaker unconstitutional, null and void, all sections providing for 'Deputy Speaker' in the standing orders should be expunged, until such a time when it shall be legally provided for in any statute.
3. That in the absence of the Speaker any member of the Chairpersons panel shall preside over the House.
4. That ranking of members of the Speaker's panel should be provided for in the standing orders in order of precedence known respectively as the First, Second, Third and Fourth Chairperson.
5. That upon ranking of the Chairperson's panel, the Speaker appoints the First Chairperson to be the Chairperson of Liaison Committee as an extension of the office of the Speaker, a position previously expressed in the office of the 'Deputy Speaker'. However in the meantime, in each sitting of the Liaison Committee, members to elect one of their own to Chair that particular sitting pursuant to standing order No. 182.

Mr. Speaker I think the members will agree with me that the report is self-explanatory. I don't have to dwell much on explaining it because the members can argue it from their reports. In a manner that they will understand. Let me now call Hon. Lucy to second the Motion.

Hon. Lucy Ngugi: Thank you Mr. Speaker, I raise to second this Motion. I will not go into details because an ad-hoc Committee had its own sittings, they did some extensive work on this so I will not water down what they did. They did a very good job, which I know the House agrees with the Committee. After the Committee sat, it presented its report to the whole Committee and the whole Committee adopted the report. Without saying much I raise to second the Motion and I argue the members to unanimously pass it.

Thank you.

(Question proposed)

Hon. Stephen Chege: Thank you Mr. Speaker, I stand to support the Motion. We are aware that this is a House of order which follows and respects the rule of law of Kenya. The

Court ruled and gave permanent orders on the same Motion that we are discussing which is good because we are led by three arms of Government; the Legislature, the Executive and the Judiciary. It is always good to respect each of those arms of Government. If the proposed Bill by the Executive to the Senate and Parliament is passed, we will still support the seat back. For now, however, we want to go by the Court ruling and we want to respect it. I congratulate the House Business and Rules Committee for the good work they have done. I stand to support the Motion. Thank you, Mr. Speaker.

(Applause)

The Speaker (Hon. Nduati Kariuki): Amos.

Hon. Murigi Amos: Thank you very much Mr. Speaker, I represent Kimorori/Wempa. One is to thank the Committee for coming up with this report. I would like to pinpoint some few issues here and there because the Standing Orders are the lifeline of this particular Assembly and, the strength for any Assembly lies in the Standing Orders.

One thing I want to point out because it is not a secret is that there are no provisions for the position of the Deputy Speaker in the Kenyan Constitution, in the County Governments Act or in any other regulations, except the Standing Orders, we can only quote the guidelines from the Salaries and Remuneration Commission (SRC) which set the salary of the Deputy Speaker at Kshs216,000. That is the only thing you can quote but there are no regulations you can find the position of the Deputy Speaker.

Mr. Speaker, to convince this Assembly, the Kshs216,000 is money which will definitely be coming from the Exchequer and we are going to lose it, I might also have some problems with the current holder of the position of the Deputy Speaker but even if you have issues or glaring problems to note, I would like to convince these Members that as late as yesterday---

(Hon. Stephen Chege rose on a point of order)

The Speaker (Hon. Nduati Kariuki): Sorry, what is your point of order?

Hon. Stephen Chege: Thank you Mr. Speaker, it is not in order for Hon. Murigi to personalise things. We are not discussing individuals; we are discussing an institution that was ruled against by the Court of Law. Therefore, we are not talking of indifferences by Hon. Members; we are talking of a ruling that is there.

Thank you, Mr. Speaker.

The Speaker (Hon. Nduati Kariuki): You have made your point.

(Applause)

Hon. Murigi Amos: Mr. Speaker, I was saying that any Member of this Assembly stands to lose from that money by the Exchequer. In fact, as late as yesterday, I met the former holder of that position and he was even ready to resign for us to have somebody else so that we may not lose this Kshs216,000. I believe he was ready to resign.

If you look in the other 46 Counties, the position of the Deputy Speaker is there. For the sake and benefit of any other Member in this Assembly to continue enjoying that perk, he was ready to resign and we pick any other Member of this Assembly to continue earning the Kshs216, 000. That money, which I think has a top up of Kshs65, 000, will not be earned and will go into waste. That is one thing.

Mr. Speaker, if I am allowed that is something I can do and I can bring that letter of resignation within the next 30 minutes so that we preserve this position for it to benefit any

other Member of this Assembly. It is not necessarily me because there are those positions I am looking for-----

(Laughter)

Hon. Murigi Amos: That is something that can be considered and we have consensus because we are having a sitting tomorrow in the afternoon and we will proceed for recess after that. This is a debate we can postpone until tomorrow afternoon and I bring you the letter for resignation so that we make sure that somebody else benefits from this.

Mr. Speaker, another thing is the issue of the Members of the Speaker's Panel. We actually know that although the Members of the Speaker's Panel are ranked, there are some issues that can arise because no one is indispensable. For example, if you have a vacancy in the position of the Speaker, who among the four will step into the shoes of the Speaker. This is one of the considerations and we should not be leaving gaps. This is a very major gap.

When you talk about the issue of the Speaker's Panel, talk about the issue of seniority and even designate somebody who will at any other time occupy the position of the Speaker. If we have a vacancy in the position of the Speaker, who will occupy that position before we elect another Speaker? We should not be leaving those gaps in the Standing Orders. That is something that requires to be addressed and we raised this issue when we had the meeting but there was no conclusion when we come to such a thing. Because we do not want the moment we get may be a vacancy those members of the Speakers panel they start throwing daggers upon each other we would like to be well spelt in the Standing Orders.

Mr. Speaker Sir, the other issue I would also wish to pinpoint at is the Committee findings on the chairing of the Select Committees and the quorum. We borrow heavily from the Standing Orders of the National Assembly and if you critically look at the Standing Orders of the National Assembly the position of the Majority Leader what is equivalent to the Parliamentary Select Committee in County Assembly Service Board. When we come to that and it is practiced all over even in the National Assembly the Leader of Majority does not sit in the Parliamentary Service Commission.

(Hon. Lilian Kabaya rose on a point of order)

Hon. Lilian Kabaya: I believe we are discussing the Committee on amendments of Standing Orders and I have not seen any reference to the position of Majority Leader in the report before me. I think we should limit our debate to matters in this report. Thank you Mr. Speaker.

Hon. Murigi Amos: Mr. Speaker Sir, I am referring to 172 because it has been mentioned. It is mentioned and that is why I am talking about it. If we were to talk about nobody should be holding two positions I think the position of the member of Board or the Majority Leader nobody should be holding those positions that is my findings.

Honorable Speaker, I also believe that some of the recommendations which-----

The Speaker (Hon. Nduati Kariuki): I am allowing you to go on but do not go on for too long because actually being a member of the House Business you either support or table a minority report. That is the norm, but I am allowing you, I am giving you the grace

Hon. Murigi Amos: Thank you Speaker for that discussion. Thank you Honorable Speaker but I am concluding and I still believe there are some serious gaps in the Standing Orders of which I think that ad-hoc Committee needs to sit down so that they can also address other issues in Standing Orders and especially what we find.

Because I said, we have a very young generation here, people who are very productive and fertile and last time, we experienced when one of us went on a maternity leave and there are no provisions in the Standing Orders and as we talk there are three who are expecting and we

should want these issues to be fully addressed in the Standing Orders. So I believe there is a lot which require to be addressed otherwise with that I support with amendments. Thank you Mr. Speaker-----

(Laughter)

Hon. Lilian Kabaya: I rise to support this report by the House Business Committee, as a House of procedures I believe that we should not be operating under procedures that have an anomaly.

When you look at the issue of the Deputy Speaker it was declared unconstitutional and interim orders were given a few months ago. However we continued acting as if those court orders did not exist that was irrespective of the fact that one of the members brought this to the attention of the Liaison Committee and tabled that order in the Liaison Committee. However the person chairing this Liaison Committee was the same person against whom a court order had been issued. Of course that issue was not discussed and we did not pay attention to it. Mr. Speaker I believe that is a very big anomaly and since there is now a permanent ruling by the court it is up to this House to amend such anomalies and to ensure that in future such a scenario does not arise.

I wish to urge this House to always respect the rule of law and to always follow court orders because this is not a decision against and individual, anybody could be holding that office. That is why I am so shocked that one of our colleagues would propose that we keep the seat in our Standing Orders despite its illegality simply for the financial gain to be gotten from it. Mr. Speaker I think that is inappropriate, it is not in order. As members of this House we should set a good example, as law makers in this County we have to be seen to be complying with the law, first and foremost, I support the Motion. Thank you.

Hon. Cathryn Mwangi: Thank you Mr. Speaker. I would like to ask one question, because one of the member's said that if the proceedings in the Parliament go through and the seat of the Deputy Speaker is retained, will the House Business then go back to change the Standing Orders and bring back the name; the Deputy Speaker in the standing order? Lastly I will not say I am supporting or I am not supporting but there is one thing I want to say, because some things people do in life, they will come back to them and pride comes before a fall. Thank you members.

Hon. Kibe Githuka: Thank you Mr. Speaker, I would first commend the work done by the Committee and one member of that Committee is Hon. Murigi Amos of whom, was supposed to oppose what he was saying in that Committee and not in the House. He is showing that he had not signed the report.

There is one important issue he had mentioned. Supposing there arises a position in the office of the Speaker, I want to correct him because he mentioned the post of Deputy Speaker; among the four members of the Speakers panel who can replace that position. It is also good for that Committee to sit down and rank the chairs of the Speaker's panel. It is also good for the members to be given a privilege of electing the senior chairperson who will be representing those four in the Speaker's panel.

The other issue is on resignation of the former Deputy Speaker, maybe that issue has been overtaken by time because it could have sometimes back. When there were issues the former Deputy Speaker could have resigned, but because this House is follows the rules and laws it cannot take that one as a serious business from the former Deputy Speaker. I stand to support with those amendments. Thank you.

Hon. Erick Kimani: Thank you Mr. Speaker, first of all I wish to thank the members for supporting the Motion. I also wish to put across two observations that were raised by a few members.

One, the reason to why the Committee made some recommendations, like number four; of ranking Chairpersons panel as first, second and third and fourth, is in case the Speaker is not present, members of the panel may have some hard time to agree on who is to oversee the proceedings member number one, two, three or four will oversee the proceedings at such time.

Two, recommendation number five is also very clear on who will sit on the Liaison Committee. Upon the ranking, the Speaker with his wisdom will appoint who to chair according to who is present or according to his wisdom on that day. Another member has raised the issue of whether when the Senate will create back that position whether the House Business and Rules Committee will sit and place that position in the Standing Orders, that what is exactly what is going to happen but for now the Committee assumes that position is not there according to the court ruling.

On recommendation number two, it well explains on that part, what will happen because it says until such a time when it shall be legally be provided for in any statute.

The Committee sat, and made this report without malice and as one member has raised an order on a member who was attempting to personalize the position. This Committee was clearly and purely looking at the position that was created by this House in the Standing Orders. I am very happy Mr. Speaker, and when such time will come and that position is brought back then the Assembly will sit and consider that person whom they think will be appropriate to serve in that position. Thank you.

(Question put and agreed to)

ADJOURNMENT

The Speaker (Hon. Nduati Kariuki): This House stands adjourned until tomorrow 2:30p.m.

The House rose at 3:20 p.m.