

REPUBLIC OF KENYA
MURANGA COUNTY ASSEMBLY

THE HANSARD

Tuesday, 15th May 2018

The House met at 2:57 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

REMOVAL OF SOME MEMBERS FROM COMMITTEES

The Speaker (Hon. Nduati Kariuki): Honorable members last Monday, 7th May 2018, I notified you that I had received a letter from the Leader of Majority party, informing of the decision by the party as communicated by him of making certain changes in certain committee. This Communication raised strong interest of members and several matters related to procedures as regulated by standing orders and the party constitution. I made it quite clear that as a Speaker I am not able to comment on what procedures the party uses in making its decisions.

After seeking guidance from the party I was satisfied that the decision was indeed a party decision and as such the Leader of Majority had power to make such decisions. An important point however was raised regarding the provision of the standing order 204 (2) which states as follows, "A member appointed to a sectoral committee at the commencement of the Assembly or any other time during the time of the Assembly shall unless the Assembly resolves serve for the term of the Assembly." There was no agreement as to whether that section supersedes section 170 of the standing order which gives political parties powers to terminate members from membership of any select committee which includes sectoral committees.

Honorable members, the Speaker takes the opinion of members seriously, and although I have no intentions of guiding, correcting or changing the decision of the party, I took it upon myself to seek further clarification on the matter. Above all I consulted on the practices of the Senate and the National Assembly because we do not exist in isolation. All these sources agree on the party supremacy in disciplining members through de-whipping. Political parties in the National Assembly have used this many times, notwithstanding that we have the same provisions in the standing orders.

The practices in other democracies which exercise the presidential system of governance have the same practice. The party and not the Speaker has a say in this matter and any other appeal can be done in the party or court of law. I am pleased that two of the members affected have sought assistance from an advocate to address this matter with the party. This is as it should be and is the right way forward.

I was also requested by the members to ask the party if they could come here and address members on this and other issues. I did that I have talked with the party and they have agreed to come as soon as possible and will hold a meeting with the members so that members can express their views, ask questions and get the answers. Having said that, the party position stands until revised.

Let me take time however, to answer technically on two points raised by the members: one is about section 170 versus standing order 204. To address this question, to address application of

standing order 170 in view of standing order 204, it is important for members to note the role of majority party on the House. One of the major roles in a legislature is to nominate members to sit in various Assembly committees. Standing order 166 establishes the selection committee which has the mandate to nominate members in various committees.

The legal advice I have received and the parties in the National Assembly states that. "A member appointed to a committee shall serve to the term of the Assembly unless otherwise resolved by the Assembly." But one has to note that this order must be read together with others,

A member can lose membership of the committee for various reasons: One, a members can be discharged by the party that nominated him as is the case now or a member can be removed from committee pursuant to standing order 203(9) as a penalty to breach of privileges and powers of the Assembly. The powers and privileges committee can suspend a member from the Assembly plenary and committee sittings. In summary, members enjoy membership of the committees at the pleasure of the political party under the law.

Therefore, the appointment under standing order 204 (2) must be read together with standing order 170. "The term of a member in a committee can be terminated by a party and this is what I have been told happen s even in the National Assembly. Standing order 204 does not remove from the party the right of the party to discipline its members in accordance to the law.

The other question was that whether the majority political party can discharge an independent Member of the County Assembly from the committees. As I have stated above, the Assembly of Murang'a has only one Assembly party, we do not have a minority party because a minority party would have seats on committees on its own rights. An Assembly party means a coalition of parties consisting of not less than five percent of the membership of the Assembly, in this case, no other party has three or more members in this Assembly, consequently all members of this Assembly associate with Jubilee and on that basis the majority party nominates these members to the committees that they serve in.

The standing orders require the majority party to take into consideration the interests of the independent members but there is no obligation in the standing orders to consider any particular member from other political parties. Likewise, the majority party has powers to discharge the independent and members from other parties from any committees of the Assembly. It may appear unfair Hon. Members but that is a matter to be raised with the party.

Having answered all this, I still maintain that this is not a matter for the Speaker to change but for members to engage the party, therefore the decision of the party as communicated remains until reviewed or in the case of Hon. Murigi, the court makes a decision on the matter that is being heard tomorrow which I hope will settle this matter once and for all.

This is a matter that is easily revisable according to the party if either have a court decision by engagement with the party as they intend to do very soon with the members of this House. Beyond that, there is nothing that the Speaker can do to change the decision.

NEGATIVE PUBLICITY

The Speaker (Hon. Nduati Kariuki): Honourable members, this is the other communication it is very unfortunate that any news that comes to this Assembly from the media is negative. The coverage has had a focus on the fights and struggles about positions which in several instances have been violent. At a glance from outside, one may be mistaken to conclude that nothing else happens in this Assembly. The people of Murang'a are very concerned and have even petitioned the Assembly to bring a halt to all the fights and work for the people.

To clear these perceptions, I have decided that every week we shall be putting up a bulletin on the work we are doing because besides all this, we are doing a lot of good work, like the visit to Yatta, that is what should be in our bulletin, with the discussions on how to have motions that we shall bring after that. We shall put in our welfare and a programme of work in our Assembly website for the next month and a few months to come that will be added as we progress.

I will make a press statement to assure the people of Murang'a of our commitment to serve them notwithstanding any dispute and competition within, which the members of the public are not interested in. They are interested in knowing what we are doing to their benefit. I have written a few points here which I shall put to the press as a commitment of this Assembly. What I'm saying is that whereas there might be differences among individual members vying for various leadership positions in the Assembly, members will not allow this to disrupt the business for which they were elected or nominated, any such difference should be sorted out within the party mechanism or as provided by law.

In line with the resolution above, the Members of the County Assembly are fully committed and I am sure you are, you are fully committed to the achievement of the big four agenda by the Jubilee government in Murang'a county. Hence will keenly monitor the implementation of those programmes efficiently and effectively, that the elected members will give prominence to the interests of the people who elected them in their wards. The interests and rights of the public to demand services will supersede the interests and rights of any individual.

That the nominated members nominated by Jubilee party will abide by the ruling party code of conduct at whose pleasure they serve and see to it that the party achieves its development objectives in the County and will put this ahead of their personal interests and struggle for power, that members will make use of legal means to sort out any differences and bring out any changes.

That while vigorously playing their oversight role on the executive, they will also vigorously and publicly support any county government initiatives aimed at improving the lives of the people of Murang'a and any opposition or alternative views on the programme will be based on facts and will be done openly at the Floor of the Assembly and its committees.

That the Assembly leadership undertakes to open itself to public views and will continuously inform the public as to its programmes and activities and invite them to attend its sittings both in the plenary and the committees.

Finally, that the Assembly will take all measures necessary to win the public support and will be driven by one major objective, serving the people. I believe Hon. Members will agree with those resolves and I have spoken to many who agree but should anyone have very strong objection about that one you can see me after this so that we can remove his name from that kind of announcement. Thank you very much Hon. Members. There are no points of orders on communication.

PAPERS

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE FIRST QUARTER BUDGET IMPLEMENTATION REPORT FOR THE FINANCIAL YEAR (FY) 2017-2018 FROM THE CONTROLLER OF BUDGET

Hon. Francis Kibe: Thank you Mr. Speaker, I am the Member of County Assembly (MCA) for Ithiru Ward and the Chairperson for the Budget and Appropriations Committee and I beg to lay the following Paper on the Table of the House;

The Report of the Budget and Appropriations Committee on the First Quarter Budget Implementation Report for the FY 2017/2018 from the Controller of Budget (COB)

(Hon. Francis Kibe laid the document on the Table)

Thank you, Mr. Speaker.

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE COUNTY
BUDGET REVIEW AND OUTLOOK PAPER (CBROP) 2018

Hon. Francis Kibe: Mr. Speaker, once again, I beg to lay the following Paper on the Table of the House;

The Report of the Budget and Appropriation Committee on the County Budget Review and Outlook Paper (CBROP) 2018

(Hon. Francis Kibe laid the document on the Table)

Thank you, Mr. Speaker.

REPORT OF DELEGATED COUNTY LEGISLATION COMMITTEE ON THE PUBLIC
FINANCE MANAGEMENT (MURANG'A COUNTY GOVERNMENT) MORTGAGE
SCHEME FUND REGULATIONS, 2018

Hon. Lilian Kabaya: Mr. Speaker, I am a nominated MCA and the Chairperson of the Delegated County Legislation Committee and I beg to lay the following Paper on the Table of the Assembly;

The Report of the select committee on the Delegated County Legislation on the amended Public Finance Management (Murang'a County Government) Mortgage Scheme Fund Regulations, 2018.

(Hon. Lilian Kabaya laid the document on the Table)

REPORT OF DELEGATED COUNTY LEGISLATION COMMITTEE ON THE PUBLIC
FINANCE MANAGEMENT (MURANG'A COUNTY GOVERNMENT) CAR LOAN
SCHEME FUND REGULATIONS, 2018

Hon. Lilian Kabaya: Thank you Mr. Speaker, I beg to lay the following Paper on the Table of the Assembly; the Report of the Delegated County Legislation Committee on the amended Public Finance Management (Murang'a County Government) Car Loan Scheme Fund Regulations, 2018.

(Hon. Lilian Kabaya laid the document on the Table)

NOTICES OF MOTIONS

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE FIRST
QUARTER BUDGET IMPLEMENTATION REPORT FOR THE FINANCIAL YEAR (FY)
2017-2018 FROM THE CONTROLLER OF BUDGET

Hon. Francis Kibe: Thank you Mr. Speaker, I beg to issue the following Notice of Motion;

That, this House adopts the Report of the Budget and Appropriations Committee on the First Quarter Budget Implementation Report for the Financial Year 2017/2018 from the COB, laid on the Table of the Assembly on Tuesday, May 15th 2018.

Thank you.

REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE COUNTY
BUDGET REVIEW AND OUTLOOK PAPER (CBROP) 2018

Hon. Francis Kibe: Mr. Speaker, I beg to issue the following Notice of Motion;

That, this House adopts the Report of the Budget and Appropriation Committee on the CBROP, 2018 laid on the Table of the Assembly on Tuesday 15th May 2018.

Thank you.

REPORT OF DELEGATED COUNTY LEGISLATION COMMITTEE ON THE PUBLIC
FINANCE MANAGEMENT (MURANG'A COUNTY GOVERNMENT) MORTGAGE
SCHEME FUND REGULATIONS, 2018

Hon. Lilian Kabaya: Thank you Mr. Speaker, I beg to give the following Notice of Motion;

That, this Assembly adopts the Report of the Select Committee on Delegated County Legislation on the amended Public Finance Management (Murang'a County Government) Mortgage Fund Scheme Regulations, 2018, laid on the Table of the Assembly on Tuesday 15th May 2018.

Thank you.

REPORT OF DELEGATED COUNTY LEGISLATION COMMITTEE ON THE PUBLIC
FINANCE MANAGEMENT (MURANG'A COUNTY GOVERNMENT) CAR LOAN
SCHEME FUND REGULATIONS, 2018

Hon. Lilian Kabaya: Thank you Mr. Speaker, I beg to give the following Notice of Motion;

That, this Assembly adopts the Report of the Select Committee on the Delegated County Legislation on the amended Public Finance Management (Murang'a County Government) Car Loan Fund Scheme Regulations, 2018 laid on the Table of the Assembly on Tuesday 15th May 2018.

TENTATIVE BUSINESS OF THE ASSEMBLY FROM THE WEEK COMMENCING
WEDNESDAY 30TH MAY 2018 TO THURSDAY 31ST MAY 2018

Hon. Milkah Ngare: Thank you Mr. Speaker, I am a Member of the House Business and Rules Committee. Pursuant to Standing Order 42 (2) (a), it is notified that the House Business Committee and Rules Committee, at their last meeting, approved the following tentative business that will come before the Assembly from the week commencing Wednesday 30th May 2018 to Thursday 31st May 2018, as attached in the Members' files. Kindly allow me to read the titles only.

On Wednesday afternoon sitting is a paper report of an expedition to Mombasa to learn about tea value addition, warehousing, tea trade at the auction and tea exports from 6th to 11th April 2018.

Second will be a notice of motion on report of an expedition to Mombasa to learn about tea value addition, warehousing, tea trade at the auction and tea exports from 6th to 11th April 2018.

Third will be a motion on adoption of the report on the County Budget Review Outlook Paper 2018.

Then there will be a motion as well on report on the Public Finance Management (Murang'a County Government) mortgage scheme fund regulations 2018.

On Thursday afternoon Honourable members the first will be a motion, adoption of the report on the first quarter budget implementation report for the financial year 2017/2018 from the controller of the budget.

The second will be a motion as well on report on the Public Finance Management (Murang'a County Government) car loan scheme fund regulations 2018.

The last one will be a statement, tentative business of the Assembly from the week commencing Tuesday June 5th to Thursday June 7th 2018.

I thank you Mr. Speaker.

MOTION

ADJOURNMENT OF THE HOUSE PURSUANT TO STANDING ORDER 30 (3)

Hon. Milkah Ngare: Thank you Mr. Speaker, I beg to move the motion for adjournment of the House pursuant to standing order 30 (3) and 54(b); This House adjourns from Wednesday May 16, 2018 to Wednesday May 30, 2018, to enable Members of the County Assembly to undertake the following-

a) To allow the second group of members of the County Assembly undertake a benchmarking visit to Arusha in Tanzania on the proposed development of Mitubiri Sanitary Landfill to be held between May 16 – May 19, 2018.

b) To allow the second group of Members of the County Assembly undertake a benchmarking visit to Yatta on May 17–18, 2018 on poverty eradication

c) To allow members of the County Assembly attend the County Assemblies Forum (CAF) summit, scheduled to commence on May 21, 2018 to May 25, 2018 in Mombasa.

d) Finally, to allow members of the County Assembly attend a consultative meeting with the County Executive Committee Member (CECM) in charge of Finance and Economic Planning, on the submitted FY 2018/2019 Budget estimates and the County Integrated Development Plan (CIDP) for the period 2018 – 2022, on Monday May 28 – Tuesday 29, 2018.

The Assembly sittings will resume on Wednesday May 30, 2018 at 2.30 p.m. Thank you. I ask Honourable Passy Njeri to second the motion.

Hon. Passy Njeri: Thank you Mr. Speaker Sir, I rise to second the motion that we adjourn the House so that we members we will be able to undertake the said businesses. I thank you.

(Question proposed)

Hon. Murigi Amos: Thank you very much; I am Murigi Amos Kimorori Wempa and leader of majority. I would like also as I support this motion is also very important and I would like to take into consideration that we -----

(Hon. Lucy Ngugi rose on a point of order)

Hon. Lucy Ngugi: Mr. Speaker Sir the Honourable Member just addressed himself as the Leader of Majority. I think it is good to clarify how many Leaders of Majority we have in the House.

Hon. Murigi Amos: Thank you, I called myself Leader of Majority, I am sure there must be somebody enjoying interim orders which are expiring mid-night today, so it's just some familiarization that from midnight I will be the majority leader of this Honourable County Assembly.

(Laughter)

I know they are very interim orders which are going to expire midnight today. I second this motion, otherwise as I was saying-----

The Speaker (Hon. Nduati Kariuki): Can you say you are the forthcoming?

(Laughter)

Hon. Murigi Amos: For the sake of that and because I will also request the Hon. Speaker to formally communicate that, I will abide and say I am the forthcoming. It is also that you may also alert this Assembly that I am the majority leader.

For the last three weeks we have been outside this Assembly attending to other very crucial matters and it is very important that the integrity and dignity of this House needs to be restored. That is why we are fighting all these fights so that one may feel that we want this Assembly to assert itself and also discharge the constitutional mandate of this particular Assembly.

In saying so, I have seen that we have been away; there has been very minimal consultations when the executive sometimes when they want to engage the Assembly. Sometimes they ambush us as if we do not have our own program.

I think Hon. Speaker you should be very instrumental in sending a very strong message even when the executive wants to engage us, it is very important that they respect our existing programs which we have because I have seen that we are suspending our business because of very flimsy grounds. That is why this Assembly is not being taken very seriously.

If you allow this, I know last week we wasted a whole day, whereby the CECM in charge of Finance was to meet us, but I was made to understand that he could not even pick calls. That demonstrates the lack of seriousness in engaging this Honourable Assembly with the executive.

I am certainly sure, though we have taken two, three weeks, this particular cycle we have very important business before us. We have the business to do with the issue to do with the CIDP, the issue also to do with the estimates. And I am certainly sure that when it comes to the issue of the CIDP and the issue to do with the estimates, and the issue to do with the annual development plan, I think and I know there might be some people who are bent and will interfere with the program of this House. I am very sure that the forces that are trying to remove some members from these committees, and especially the Finance Committee, they are the people not happy with the chairman Finance committee because of the stand he has taken on some of these issues so that the Assembly can be able to be assertive.

(Applause)

I am totally convinced that there are some external forces. This one is not from the outgoing Majority Leader, I am very sure of some serious manipulations that are aimed to manipulate this Assembly.

As I support this adjournment let it also be a lesson because I have critically listened to our Hon. Speaker and I have seen that the issue to do with the manipulation is not only to the Majority Leader but also to the leadership of this Assembly. We must wrestle for the respect for this Assembly.

As I end let me also say that when it comes to the dignity of this House, we are ready to pay any price and we are ready to do it. We are going to fight all we can so that we destroy. It is not that we are interested with these positions but what matters is the dignity of this Honourable Assembly.

I am sure when we come back we shall take the issues before this House very seriously. Remember the issue of the CIDP, remember this document has been delayed by the Executive for so long. We had to keep on asking they bring this document and they are bringing it at the tail end of the timelines. If this is not a coincidence, it is something that is planned. So that we can hurriedly pass this document.

As we do that Hon. Speaker it is important that this is a very crucial document to us, the two of them. We would like to have enough time so that we scrutinize the documents because they are the livelihood of our people; the people of Murang'a. I believe Murang'a is bigger than any one of us and we are going to eventually defend the dignity of this House. Either here, outside, through courts and as I end, the issue of the Jubilee party should not come here because it is prejudice because already we are in court with Jubilee party and the issue should not come here at any given time.

Let us conclude the case tomorrow and after conclusion of the case we will be ready to sit down with Jubilee party and reason together. But for now, it will definitely be prejudice to the ongoing court cases where by the Jubilee party and the Secretary General Raphael Tuju, as a party I took to him to court and I am being punished for taking him to court. As we talk the case before Senior Justice Githua in High Court, it is now the outgoing Majority Leader has copied me and has also taken Tuju to court, he has taken Jubilee to court. I do not know why I am being punished for taking Tuju to court and the outgoing Majority Leader has also done so. He has taken Tuju and Jubilee to court. With that I stand to support.

(Laughter)

Hon. Kiiru Mwangi: I also rise to support the adjournment bearing in mind that the documents that we are supposed to discuss on 28th, the CIDP and the budget estimates are very crucial documents. In fact from the committees we have a deadline of, by 25th we are supposed to have submitted your recommendations to the various committees that are in charge of that. But Mr. Speaker I also heard that there is a communication, I do not know, I was absent but I also want to bring to the attention of this House that this is a House that is governed by law and order. If you read standing order 204 (2) it is very clear that, "A member appointed to a sectoral committee at the commencement of the Assembly or at any other time during the term of the Assembly shall, unless the Assembly otherwise resolves, serve for the term of that Assembly"

Mr. Speaker I have not heard any resolution from this Assembly that some members have been discharged of their duties. Mr. Speaker, I was given the committees that I serve by the Selection

committee which is not a committee of Jubilee neither is it a committee of any other party. I cannot sing to the whims of a political party, I was not given that seat by Jubilee; I was given by the selection committee which was adopted by this House.

I will remain in those committees, if anybody wants to remove me, go to court and prove your case. I have already instructed my lawyer that whoever wrote that letter must face defamatory charge or proceedings and we are on our way.

So Mr. Speaker, I hereby stand to put this clear to the entire County of Murang'a until we do not have first hand, second hand, citizens of this County we will never know peace. Mr. Speaker, until we treat all members, everybody equal we will never have peace. Those fights you have been seeing in the past they are coming to an end. But I can see those forces that try to gag this Assembly, our work is to offer oversight and we cannot offer oversight when we are being gagged by external forces including the Executive.

Mr. Speaker we are here, and we are not going to relent, we are going to soldier on and we are going to fight on and I will not leave that seat until somebody proves me otherwise or until I get a resolution from this Assembly in accordance to the standing order 204 because I did not come via a party.

Mr. Speaker, it is very wrong, we are here, and we were elected, by the people of Murang'a to represent them and not only to represent them but to offer oversight, to guard their properties. We have been fighting here, we want to have bursary, we passed that in the supplementary budget, where is that bursary, where is it? Where do you want to take this money and we only have one month to go. Our people are suffering in the village, they want to go to school, they cannot afford.

Mr. Speaker that is why we were elected, we were elected not to come here and gag members, that if you are not towing the line, you will be gagged. I am here by right; I am not here by choice. Nobody brought me here, I was elected by the people of Gaturi to represent them and I cannot sing to the whims of anybody and I will never ever. If I do not believe in something I will never support it, if I believe in something well and good, I will support it. But Mr. Speaker, to conclude I want to say this, time is coming when this County will be bigger than an individual and I rest my case. Thank you Mr. Speaker.

The Speaker (Hon. Nduati Kariuki): Thank you very much, any more contributions?

(silence)

The Speaker (Hon. Nduati Kariuki): In that case Honorable members since there is no voting for this, any other business?

ADJOURNMENT

The Speaker (Hon. Nduati Kariuki): That being the case Honorable members we adjourn until the day appointed, that is, Wednesday May 30th 2018 at 2:30 p.m. Thank you very much.

The House rose at 3:21 p.m.