

MURANG'A COUNTY ASSEMBLY

THE HANSARD

Thursday, 22nd October 2015

The House met at 3:07 p.m.

(Deputy Speaker Hon. Gachui Mungai in the Chair)

PRAYERS

COMMUNICATION FROM THE CHAIR

UNITY IN THE ASSEMBLY

Hon. Deputy Speaker: Due to the weight of the matter that was before this Assembly yesterday, as the Chair, I have witnessed some division among members and we have been preaching unity.

I want to reiterate that the unity of purpose in this Assembly is paramount and that was a political duel yesterday and I would say that it is the Assembly that won; there is no particular group that lost.

I want to insist on the word of unity because as leaders in this Assembly representing Wanjiku, it is our duty to show unity so that the citizens may be united. The unnecessary commotions that may be arising from yesterday's debate, I can condemn any impending commotion amongst members. Yesterday's debate was a litmus test for this Assembly.

As I preach unity and peace in the Assembly, I will be happy as the Chair of this plenary, after the weighty matter that was discussed, that has never been before this House, I would be a happy man seeing the members of this Assembly united. The matter that was before the Assembly yesterday is no longer within us, so with all due respect, I do not see any reason why the members should be divided. The matter is now in the hands of the Senate, which is different institution. We will wait for the Senate to do its work since we did ours yesterday.

MOTION

ADOPTION OF REPORT OF THE LAND, HOUSING, PHYSICAL PLANNING AND SETTLEMENT ON VETTING OF MR. JOHN N. MAINA FOR APPOINTMENT AS A MEMBER OF THE MURANG'A COUNTY LAND MANAGEMENT BOARD

Hon. Duncan Njuguna: I beg to move the following motion;-

That this House adopts the report of Land, Housing, Physical planning on the vetting of Mr. Johnson N. Maina for appointment as a member of the County Land Management Board laid on the table of the Assembly on 14th October 2015.

Mr. Speaker, we vetted seven appointees for the board and we recommended for the appointment of five out of the seven and the report was adopted by this House.

According to the County Governments Act 2012, they are supposed to be appointed according to regional balance. In the list, the seven members came from the seven constituencies in this county. By then Kandara did not have a representative but it later got one through the appointment of a physical planner in the board, Kangema and Gatanga are yet.

Mr. John Maina was one of the appointees and appealed to the National Land Commission after we rejected him. The commission, through its chairman, recommended for revetting and wrote to the County Public Service Board which said that they did not have any problem with revetting of the appointee.

We received those requests from the National Land Commission and the County Service Board through the Clerk to the County Assembly. Two weeks ago, we vetted Mr. John N Maina.

As per the letters from the County Public Service board and the National Land Commission, he said that there was something amiss that day because his son and the fiancée were carjacked the night before he came for vetting and the kidnappers were asking for ransom to release the couple; he was not himself and he attended without a settled mind.

When he explained this to the committee, we decided to listen to him and on the material day and after being asked by Hon. Catherine, he confirmed he was in a good state of mind. We vetted him and diverted a bit from the previous questions although the bulk of the questions were guided by the appointments policy, he was able to satisfy the committee with his answers. As a committee, we recommend this House to adopt Mr. Johnson N. Maina for the appointment to the County Land Management Board.

We only have one slot remaining, and since the County Governments Act recommends regional balancing, that slot should go.

(Hon. David Kabaka walks towards the Chamber exit)

Mr. Speaker, can you defend me from Hon Kabaka leaving the House, he was to second this motion.

(Hon. David Kabaka resumed his seat)

Hon. Deputy Speaker: Continue

Hon. Duncan Njuguna: We can now say on Hansard that the remaining, according to the Act is supposed to go to Gatanga to fill the board, although it says from three to seven and the physical planner.

I would like the Chief Whip, Hon. David Gachuru Kabaka representing Kambiti ward, and a member of this committee to second.

Hon. David Kabaka: I second the report. As the chairman has said, the gentleman had a serious family issue. We empathized with him and we considered him when he came for the second time. According to his papers and knowledge we saw he was fit for that office. I support the report.

(Question proposed)

Hon. Kago Njoro: As the chairman explained, everyone knows the story of this man, we had brought his name to this Assembly. Then, he could not understand what was the National Land Commission was and the work of the County Land Management Board but he petitioned the decision of the Assembly and gave us the reasons why he was confused.

After answering the questions and explaining what we were asking him, we re-interviewed him as if he had not appeared before the panel so that we can give our county the best.

We found the man appropriate; we need to approve him so that he can take up his position in the Land Management Board. We are waiting for the other position to be advertised, although the board is working, the minimum is five and they are already there. With his approval, we hope the board will get a man of substance who will help it. I support the motion.

Hon. Charles Karina: Thank you Mr. Speaker, allow me to echo some words on the historic motion that was here yesterday. I pray that members work together; we should forget our differences inspite of the fact that it was a highly powered political battle.

I pray that we stay in peace and maintain love. Whatever happened yesterday is gone and we should continue working together.

I am a member of this committee and I support this report. I also thank the members who did this nice job of vetting this well-known Johnson Maina again.

He appeared before our committee sometime back but after we vetted him again, we felt that we should recommend to this Assembly to approve his appointment. I thank the committee for the work they are doing in this whole county because land matters are all over. I am therefore very happy, I urge members to support this report so that Johnson Mwangi Maina can join the rest of the team of the board so that they can continue working for this county.

Hon. Deputy Speaker: Hon. member for Kinyona.

Hon. Charles Kirigwi: Thank you Mr. Speaker, I am not a member of this committee and there are a few questions I am asking myself; why did this interviewee appeal to the County Lands Board? Why did he not appeal to the County Public Service Board where he had earlier applied through, or, the Assembly?

In his appeal, did he follow our set down appeal mechanism? For example, we are currently employing clerks in this Assembly and I believe that there must be appeal mechanisms in the Assembly so that if an employee is aggrieved, there is a way through which he or she can appeal.

I am finding this interviewee taking advantage of us. Suppose I attended an interview today and out of my wisdom decide to say that my wife had a misfortune last night. I then cite such a reason to seek for another interview. I will, most likely, have gotten the questions that are there---

Hon. Duncan Njuguna: On a point of order Mr. Speaker---

Hon. Deputy Speaker: Yes, and state which order has been violated.

Hon. Duncan Njuguna: Order no. 83, he is misleading the House, the committee of Land, Physical Planning, Settlement and Housing did not interview the said Johnson, the committee's role was to vet.

Hon. Deputy Speaker: Hon. member, you may continue, maybe it was a slip of the tongue.

Hon. Charles Kirigwi: I did not say that the committee of Lands was carrying out the interview; I meant that if a member appears for vetting, he may have the advantage of having the same questions that had been asked previously.

I am not sure whether this process will not be challenged in court. One, we do not have a well constituted Service Board yet I understand that the Service Board gave a go-ahead. You know that we currently do not have a substantive chairman of the board, the person who is acting as the chair has held that office for more than 80 days. The provisions of our terms are well stipulated.

I do not know whether the people of Kandara were given a chance to compete with him by the same board that we are saying that it may not be well constituted. I do not know whether they were given a fair playing ground to compete with him.

(Loud consultations)

Therefore, I do know whether to support or reject but I need clarification from the mover on those two---

Hon. Deputy Speaker: Order! Hon. member for Gitugi, you do not have to lobby for your motion in that manner.

(Hon. Duncan Njuguna spoke off the record)

Order! Order! Hon. member for Gitugi, we have to behave like members in this House. This is not a hotel; it is a House and we have to respect it.

Order! Hon. member, every member has a right to debate. Hon. member for Gitugi, you also misled this House because you quoted standing order no.83 which is not a relevant order.

Order! Hon. member for Gitugi. Standing order no.83 gives provision for a point of order and says clearly that any member who is standing on a point of order has to quote which order has been violated. You therefore misled this House by saying that you are quoting that standing order.

Order! Hon. member, I am going to invoke the standing order no.1. You may continue Hon. member for Kinyona.

Hon. Charles Kirigwi: As I rest my case, the person who was vetted again by our very able committee has had undue advantage over the people of Kandara and I oppose the motion.

Hon. Deputy Speaker: Yes, hon. Charity.

Hon. Charity Rugu: I stand to strongly support the motion. As the chairperson for Lands said, the said Maina was here. He stipulated very well on how we vetted the person.

(Loud consultations)

The chair is talking and I am supporting the motion, protect me.

Hon. Deputy Speaker: That is the work of the chair, just continue. They are consulting; he is lobbying.

Hon. Charity Rugu: We vetted the person earlier on and it was said that he had a problem. Any man can have such problems. We did not vet him for the second time just for the sake of it. Everything done in this House has a procedure and we did it though a procedure.

After listening to him during the vetting process, we found out that he is an intelligent and knowledgeable man who can do a lot for our department. He is the right man for that slot. He can work for our department since it has a lot to do for this county. I therefore support.

Hon. Deputy Speaker: Hon. member for Kamahuha.

Hon. John Gitau: I have gone through this report and the applicant appears quite qualified, academically, and he also has experience.

However, item number one says that there was a discrepancy of Kshs. 15 million between how much he was worth as at November 2014 and as at 13th October 2015, that stops at there. There is no mention of how that affects this report.

If you look at this report, it appears a bit shallow. We are told that he comes from a particular region, which is also not put in this report *vis- a- vis* balancing of these members from the county.

About the son being hijacked, do we have any proof that it happened or could it be a hoax so that he could actually be considered? While I do not have a problem in supporting this report, it appears shallow because it does not also address the issue of integrity under chapter six. That is why we vet these people. Vetting does not mean that I come, give my stories, leave and you then consider me.

If you look at this report, something needed to be done. Maybe they have the information but it is not put in the report. Nothing is mentioned about integrity, which is the core thing and can be challenged. Maybe this needs to be addressed competently.

Hon. Deputy Speaker: Yes, hon. member for Muthithi. The hon. member for Kamahuha was not hot or cold.

Hon. Samuel Wandia: I was questioning myself when I was seated; this person had initially been vetted and we were not given the results of the first vetting.

If this person did not perform during the first vetting because of a problem, they should have at least postponed the vetting. From the word go, they should have told this person to go; we were not given the report of his first vetting.

At the same time, this person appealed and I am questioning myself how he came to know that he did not perform, how did he know that he did not meet the requirements of the committee? That one is not given here, not unless they talked outside the boundaries of this Assembly for him to have known that he never performed. He should have appealed then.

In actual fact, if at all he did not perform, all of them should have been given an opportunity for another interview and vetting process; therefore, I am not happy with this report.

He has all the qualifications, however, I am looking at the job he has been called to do in the department of Land, Housing, Physical Planning and Settlement where the committee oversees the following functions; land and survey and mapping, boundaries and fencing, housing and urban development, lands and physical development disputes, conservation and protection of ecology sensitive areas, exploitation of land and its natural resources.

I am not able to relate his qualifications and all what is done in the Lands department, not unless this person has been appointed to come to the office like the Assembly where the technical decisions will not be taken; he can perform in this Assembly.

He is an accountant and a manager by qualification, but when you look at the technical areas, this House should re-think before we offer the job. We may employ somebody who will only be earning but will never talk when they go for meetings where technical advice is required; the said person can only advise the department of Lands in accounting and management issues.

We therefore have to be a bit sensitive before we accede to what the committee of Lands wants. I end there and ask my colleagues to re-think and review the work that has to be done by this person once he joins us. We should also be told why this person had to re-apply for reconsideration.

Hon. Erick Kimani: Mr. Speaker the work of the committee is to do on behalf of the whole Assembly, so I rise to support this report.

The committee did its work; it vetted the said Mr. Johnson and they have given the report. Unless we are provided with the Hansard report to get the whole content of what was transpiring during the committee proceedings, according to me, we trust the committee it did its work and so we cannot keep on postponing the motion to the next sitting while the office needs the person to serve.

I support the motion and request that you just put the question we conclude the matter.

Hon. Deputy Speaker: It is not for a particular member to tell the Chair to put the question. The Chair is not directed, the Chair gives direction. Hon. member for Kigumo

Hon. Caroline Njoroge: I rise to support the report of the committee bearing in mind this is a very active committee with a very able chair and I believe this is a person who went through the board and came for vetting. The members of the committee of course did a thorough job and I believe so even without referring whether he is a technical person.

I believe being a person with managerial skills, he will be able to perform this very well and therefore I rise to support the work of the committee and on humanitarian grounds offering that chance to listen to him and vetting him again.

I believe that we need this person in that position and we need not to support him for that position but I would wish to request hon. members that we support he gets that position because we all can attest that this committee has brought a lot of issues to do with land in this county and we'd wish to have that committee in place with all the members. So I rise to support the report and I urge all members that we support, thank you.

Hon. Peter Mweri: Thank you Mr. Speaker, I rise to support the motion. As the hon. chairman said, there are those gaps in the land board. I was just checking on the qualifications of this person and I had seen them before.

He is a person who is learned, he is a person with lots of experience in different fields not only in lands, and as I would echo the sentiments of hon. Caroline; he holds Master's degree in management and organization development from United States International University.

I know those who have done management, it very wide and I am double sure when we get to the system you will get the specifics. I have noted he worked as budget analyst at the Embassy of United States of America from 1998 to 2006 so he can also be very helpful to the board in terms of budgeting some of the land issues.

I have also noted that on observation point three; he has also served in a board of management; that's another advantage though in a different institution; in an insurance company but the functions are similar, they go well again together.

I would also like to echo as one member has said, we need to move forward as a county and if the hon. members who we have entrusted in lands committee have seen that he is worth and has re-interviewed him and also the service board because initially he comes here only for vetting. He has already gone for the interview through the County Public Service Board, and he has passed and the entrusted committee have approved, I think we should go as they have recommended because we respect the work they are doing.

I would like to thank the chairman for taking us this far and I would like the chairman to also look into other sub- county boards so that they are constituted and many other issues at sub-county level are taken care of.

Hon. Deputy Speaker: Mover to respond.

Hon. Duncan Njuguna: I would like to thank the hon. members whether they have supported or rejected the report of committee, but I would like as requested to clarify some of the few issues that were raised.

The drop from Kshs. 25 million to 15 million; the appointee told us that they shared the wealth with the family members and we couldn't doubt that because there is nowhere in the provision of revenue where we are supposed to ask for the document to prove it and that is why we went by that.

When this appointee came for appointment last year, as I said earlier, he did not have an identity card because he explained to us that when he went to the bank to withdraw money that was requested by the kidnappers, he left his ID in the bank and he came with a passport which was already expired and we had indicated that in the report which we tabled in this House.

Three, on the issue of Kandara, it has a representative in the name of Sarah Gacanga from Gituru location. We brought her report to this House so Kandara is well represented. This gentleman comes from Kangema and that's why I said that, according to County Governments Act 2012, the board should be regionally balanced.

The mandates that hon. member for Muthithi has just read to this House, those are the mandates of the committee not the mandates of the board. In the mandate of the board, there is nowhere indicated that you must be a physical planner, land economist, surveyor, or something related to land to be appointed in the board.

That is a job should just be an earning commission because they are the replica of the National Land Commission and that is why the two hon. members of this House have decided to walk out because they knew that they were misleading the House.

I would like the members to know that the other issue, because there were only two issues that made us reject him; one as I said it's the ID, it didn't have the ID number, he was not conversant with the County Land Management Board matters and as I said we even went out

to question him on other issues related to the Community Bill which is in the parliament, Land Bill and others and he was able to answer to our satisfactory.

With that I would urge the hon. members; we looked at integrity issues and all the records are there and that is why we recommended him. It was not ours; it is not the process, if one is rejected by this House you cannot appeal to this House.

The interviewing body is the body one appeals to, so Mr. Johnson Maina appealed to the National Land Commission and also to the County Public Service Board where the National Land Commission through the representatives of the central region commissioner, were able as commissioners to sit down and give him a second hearing.

During the interview by the County Public Service Board, a representative from the National Land Commission, that is the rank of Commissioner was present, and therefore saying that he could have appealed through the Assembly that one there is nowhere in the Constitution or in any other law that you could have followed in that process.

With that I will urge the House to look into the matter and see the way we saw it that since he has gone through the whole process and what transpired during the first vetting, we give Mr. Johnson Maina the chance of being on the County Land Management Board. Thank you Mr. Speaker.

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: Hon. members before I adjourn, I want to draw the attention of the members to the standing order 83 (4) that was quoted by the hon. member for Gitugi especially so that members should be able to respect the Chair without necessarily looking at who is chairing. The chair has the mandate to do what is contained there.

The House stands adjourned until Tuesday 27th October 2015 at 9:30a.m.

The House rose at 3:54 p.m.