

MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd August, 2016

The House met at 2.39 p.m.

[The Speaker (Hon. Mung'ata) in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Hon. Speaker: For this session Hon. Members, there is a communication dated today and I begin with the welcome remarks.

WELCOME REMARKS

Good afternoon, Hon. Members. I welcome you to the first sitting of the third part of the fourth session of the first County Assembly of Machakos which starts today, 2nd August, 2016 to 29th September, 2016. The third part has 36 sittings and it is during this part of the session that the Finance Bill, a very important document for our County, is expected to be tabled. Hon. Members, I believe that as we undertake our mandate during this part of the session, we will do so with renewed vigor.

REPORT FROM THE AUDITOR GENERAL

Hon. Members, pursuant to Article 229 (4) (b) of the Constitution, within six months after the end of each financial year, the Auditor General shall audit and report, in respect of that financial year, on the accounts of all funds and authorities of the national and county governments.

The Office of the Clerk is in receipt of an audit report from the office of the Auditor General Ref: YWSC/332/2014/2015 (22) dated 5th July, 2016 on the financial statements of Yatta Water Services Company Limited for the year ended 30th June, 2015.

The report has been submitted in accordance with the provisions of Article 229 (7) of the Constitution and I hereby commit it to the Public Accounts and Investments committee for interrogation and preparation of a report to be tabled in the House for debate and consideration as required by Article 229 (8) of the Constitution.

PARKING BAY

Further again on parking bay, Hon. Members, there have been cases of Members double-parking whenever the available parking slots are filled, which in many instances has inconvenienced other Members or visitors who may want to leave the Assembly precincts at any time.

An additional parking area has been established adjacent to the County Assembly along Mwatu wa Ngoma Road where vehicles can be parked whenever the parking slots within the Assembly precincts are occupied. Therefore, Members, if you find the parking spaces within the Assembly precincts full, ensure you park your vehicles safely on the new parking space already acquired.

POSSESSION OF FIREARMS AND OTHER WEAPONS

Hon. Members, I wish to draw the attention of the House to the provisions of Standing Order 96, which states that, ‘no Member shall bring a firearm or any offensive weapon into the Chamber and any such weapon must be deposited with the Serjeant-at-Arms for safe custody before entering the Chamber, and collected at the time of leaving the Chamber.’ This provision also prohibits admission of strangers carrying firearms and offensive weapons into the precincts of the County Assembly.

In view of the above, I wish to caution Members that possession of firearms and any other offensive weapons in the Chamber constitutes a gross disorderly conduct as provided for in Standing Order 103 (h) which states that ‘conduct is grossly disorderly if the Member concerned commits any serious breach of the Standing Orders.’

Accordingly, I direct Serjeant-at-Arms, being the officers of the House responsible for enforcement of these rules, to strictly undertake stringent security checks as required by Standing Order 95 to ensure that no Member or strangers access the Chamber before depositing their respective firearms with the office cited.

OFFICIAL WHATSAPP GROUP

Hon. Members, sometime last year, an official *WhatsApp* group was created to ease communication between the offices of the Speaker and the Clerk on one hand, and Members of the County Assembly. The page, which was only meant for official communication, but degenerated to a tool for Members and some officers to advance their political, social as well as religious persuasions. This led to the closure of the said *WhatsApp* group.

However, necessitated by the frequency of official communication to Members and the effectiveness of social media, there is a need to re-introduce the *WhatsApp* group for ease of communication. The matter will be placed before the committee on Powers and Privileges for further consideration.

MEMBERS’ IPADS

Further, in today's communication, Hon. Members, as you are aware, the world is undergoing a digital revolution which will not only make documentation and information sharing easier, but will also save money, boost productivity, save on storage space, keep personal information more secure and reduce environmental degradation caused by use of paper.

In this regard, iPads have been purchased for all Members and as soon as the same are issued, order papers, reports, minutes of committee meetings and other documentation for Members' consumption shall only be made accessible to Members through email. I therefore urge you to liaise with the ICT section and confirm your email addresses to enhance ease of access to information.

(Applause)

SERVICING AND MAINTENANCE OF LAPTOPS

In 2013, all Hon. Members were issued with laptops to assist in execution of their legislative duties. The Clerk of the County Assembly subsequently issued a circular, dated 19th July, 2016, to all Members of the County Assembly requesting you to submit the laptops to the procurement office to facilitate the process of servicing and maintenance. Hon. Members who have not adhered are urged to do so by close of business on Friday, 5th August, 2016 to enable the procurement department to discharge its duties accordingly.

DISCHARGE OF MEMBERS FROM COMMITTEES

Hon. Members, pursuant to Standing Order 156 of the County Assembly of Machakos Standing Orders, I received five letters from the Majority Whip on 20th July, 2016 giving notice of discharge of the following Members from various committees: -

1. Hon. Isaac Muinde - discharged from the Ward Development committee and committee on Transport, Roads and Public Works.
2. Hon. Rachel Nduku - discharged from the committee on Transport, Roads and Public Works.
3. Hon. Felix Ngui - discharged from the committee on Procedure and Rules.
4. Hon. Christine Mutune- discharged from the committee on Education and Social Welfare.

Furthermore, Hon. Members, I received another letter from the Minority Whip on 20th July, 2016 discharging Hon. Nathaniel Nganga from the committee on Transport, Roads and Public Works. Therefore, Hon. Members, take cognizance of the changes. Thank you. Let us proceed.

PAPER LAID

REPLACEMENT OF MEMBERS TO COMMITTEES

Majority Leader (Hon. Mwonga): Mr. Speaker, Sir, I beg to lay the following paper on the floor of the house today 2nd August, 2016: the report on replacement of members to various committees as occasioned by discharge of some Hon. Members from committees.

(Hon. Mwonga laid the Paper on the Table)

Hon. Speaker: Paper laid. Proceed

NOTICE OF MOTION
REPLACEMENT OF MEMBERS TO COMMITTEES

Majority Leader (Hon. Mwonga): Mr. Speaker, Sir, pursuant to Standing Order 190 (5), I wish to give notice of the motion: that this Hon. House discusses and approves the report on the replacement of members to various committees as occasioned by discharge of some Hon. Members from committees.

Hon. Speaker: Notice issued. Proceed

STATEMENTS
BUSINESS OF THE HOUSE FOR 2ND TO 9TH JUNE, 2016

Hon. Speaker: Hon. Gideon Kavuu.

Hon. Kavuu: I want to give the statement on business of the House for the week starting today 2nd to 4th August, 2016.

Mr. Speaker, Sir, I stand under Standing Order 41 (2) (a) where ‘during the statement hour, a member of the House Business committee designated by the committee for the purpose, shall every Thursday or on the last sitting day, for not more than 10 minutes, present and lay on the table, a statement informing the House of the business coming before the House in the following week.’

Mr. Speaker, Sir, the House Business committee met on 27th July, 2016 and pursuant to the provision of the Standing Order 151, balloted business for the week as follows: -

- Today, 2nd August, 2016 - report of committee of Selection on implementation of membership and report of Agriculture and Cooperative Development committee on the establishment of milk chillers.
- Wednesday (Morning) 3rd August, 2016 - the report of Labour, Public Service and ICT committee on benchmarking with Kisumu County Assembly and report of Health and Emergency Services committee on benchmarking with Thika hospital in Kiambu County.
- Wednesday (Afternoon) 3rd August, 2016 - report of implementation committee on status report of county projects in Kivaa ward.

- Trade, planning and Industrialization committee report on projects implemented by trade, economic, planning, investment and industrialization for the first three quarters of the financial year 2015/2016
- Thursday 4th August, 2016- report of Transport and Public Works committee on phase 2 roads project implementation. Thank you, Mr. Speaker.

Hon. Speaker: We can proceed.

MOTIONS

REPLACEMENT OF MEMBERS TO COMMITTEES

Majority Leader (Hon. Mwonga): Mr. Speaker, Sir, aware that the committee on selection is mandated to nominate members to serve in committees, pursuant to Standing Order number 152 (2); further aware that membership of a committee can be effected by resignation or removal of a member from a committee pursuant to Standing Order 153 (3); cognizant of the fact that the Assembly party that nominated a member to a select committee may give notice of discharge in writing to the Speaker pursuant to Standing Order 156 (1 and 2); aware that Standing Order 157 provides for guidelines on the number of members a select committee should have; Mr. Speaker, informed that the committee on Selection is in receipt of several discharge cases as effected by the Assembly parties pursuant to Standing Order 156; remembering that the committee on Selection retreated to Mombasa on 21st to 24th July, 2016 to replace membership of the affected committees, Mr. Speaker, I wish to move a motion that this House discusses and approves the report on replacement of members to various committees as effected by discharge of some Hon. Members from committees. I want to call upon the vice chair of this committee, Hon. Kasoa to second the motion.

Minority Leader (Hon. Kasoa): Mr. Speaker, I second the report of the committee on Selection.

Hon. Speaker: You can proceed.

Majority Leader (Hon. Mwonga): Mr. Speaker, I want to table the report of committee of Selection and before that, with your permission, I want to say that I feel very much privileged and honoured to be the first member of this Assembly in the third part of the fourth session to present the first business to this Hon. House.

Mr. Speaker, all this is because of the members who have supported me and it is because of being the Leader of Majority that I am doing this and I want to thank members who have stood with me throughout, Mr. Speaker.

Back to the report, Mr. Speaker, Sir, parliaments all over the world rely heavily on committees for better service delivery. Committees enable legislators to work faster, help them get full details of specific issues before the House in addition to making the Assembly perform many tasks at the same time.

Mr. Speaker, Sir, for the purpose of effective discharge of business by Assembly committees, composition of select committees is well spelt out in Standing Order 157 that ‘subject to any written law, these Standing Orders or a resolution of the House, a select committee shall consist of an odd number of members being not less than nine and not more than thirteen.’

For other Select Committees like Public Accounts Committee and Procedure and Rules, the membership is dictated by the Standing Orders.

Mr. Speaker, composition of a select committee can be affected by resignation or removal of a member from the committee pursuant to Standing Order 153 (3), that ‘a vacancy occasioned by resignation or removal of a member from a select committee shall be filled in fourteen days of the vacancy.’

Mr. Speaker, Sir, the Committee on Selection is established pursuant to Standing Order 152 (1) and its mandate is spelt out in Standing Order 152 (2), ‘the Committee on Selection shall nominate members to serve in Committees, save for the membership of the House Business Committee and Committee on Appointments.’

Mr. Speaker, Sir, the Committee Members are as listed below:-

- | | |
|----------------------------------|------------------|
| 1. Hon. Joshua Mwonga | - Chairman |
| 2. Hon. Thomas Kasoa | - V. Chairperson |
| 3. Hon. Renson Muthiani | - Member |
| 4. Hon. Timothy Kilonzo | ” |
| 5. Hon. Brigid Kitili | ” |
| 6. Hon. (Ms.) Christine Mwendu | ” |
| 7. Hon. Charles Mutisya | ” |
| 8. Hon. (Ms.) Veronica Mbithe | ” |
| 9. Hon. Alphonse Wambua | ” |
| 10. Hon. Benson Kasyoka | ” |
| 11. Hon. (Ms.) Ruth Ndumi | ” |
| 12. Hon. (Ms.) Catherine Nguluku | ” |

Mr. Speaker Sir, Standing Order 156 (1) and (2) provides that ‘the Assembly party that nominated a member to a select committee may give notice in writing to the Speaker that the member is to be discharged from a select committee and the discharge shall take effect upon receipt by the Speaker of a notice under paragraph 1.’

Mr. Speaker, the committee on Selection on various dates had been notified of notice of discharge of the following members from various committees.

1. Hon. Christine Mutune from Education and Social Welfare Committee.
2. Hon. Peter Nzioki from Finance and Revenue Collection Committee.
3. Hon. Francis Matheka from Ward Development Fund Committee.
4. Hon. Felix Ngui from Transport, Public Works and Procedure and Rules Committees.
5. Hon. Isaac Muinde from Transport and Public Works and Ward Development Fund Committee.
6. Hon. Rachel Nduku from Transport and Public Works Committee.

7. Hon. Stephen Muthuka from Powers and Privileges Committee.
8. Hon. Rachel Nduku from committee on Selection.
9. Hon. Nathaniel Nganga from Transport and Public Works Committee.

Mr. Speaker, Sir, to maintain the membership of the committees affected by discharge of the above Hon. Members, other members were nominated to replace them pursuant to the Standing Orders. The following Hon. Members were nominated to replace the discharged cases:

1. Hon. Veronica Mbithe to Education and Social Welfare Committee.
2. Hon. Timothy Kilonzo to Finance and Revenue Collection Committee.
3. Hon. Christine Mutune to Transport and Public Works Committee.
4. Hon. Isaac Muinde to Ward Development Committee.
5. Hon. Joshua Mwonga to Procedure and Rules Committee.
6. Hon. Ruth Ndumi to Transport and Public Works Committee.
7. Hon. Jacqueline Nziva to Transport and Public Works.
8. Hon. Alex Kamitu to Powers and Privileges Committee.
9. Hon. Mary Ndinda to Selection committee.
10. Hon. Francis Matheka to Ward Development Fund Committee.
11. Hon. Joseph Itumo to Transport and Public Works Committee.

Mr. Speaker, Sir, in the process of doing the replacement of the above committees, some Hon. Members had to relinquish committees as follows:-

1. Hon. Veronica Mbithe from Transport and Public Works Committee.
2. Hon. Raphael Mutuku from Environment, Lands, Energy and Natural Resources Committee.
3. Hon. Jacqueline Nziva from Devolution and Intergovernmental Relations Committee.
4. Hon. Timothy Kilonzo from Decentralized Units and Urban Areas.
5. Hon. Nathaniel Nganga from Finance and Revenue Collection Committee.
6. Hon. Phoebe Koki from Trade, Planning and Industrialization.
7. Hon. Ruth Ndumi from Devolution and Intergovernmental Relations Committee.
8. Hon. Cornelius Kitheka from Decentralized Units and Urban Areas

Mr. Speaker, Sir, vacancies that were occasioned by relinquishing of committees were filled as follows:-

1. Hon. Phoebe Koki to Transport and Public Works Committee.
2. Hon. Isaac Muinde to Environment, Lands, Energy and Natural Resources Committee.
3. Hon. Isaac Muinde to Decentralized Units and Urban Areas Committee.
4. Hon. Rachel Nduku to Finance and Revenue Collection Committee.
5. Hon. Felix Ngui to Trade, Planning and Industrialization Committee.
6. Hon. Nathaniel Nganga to Devolution and Intergovernmental Relations Committee.
7. Hon. Raphael Mutuku to Devolution and Intergovernmental Relations Committee.
8. Hon. Nathaniel Nganga to Decentralized Units and Urban Areas Committee.

Mr. Speaker, Sir, I wish to remind all Hon. Members that Committees are essential parliamentary units that enable a structured approach to handling various roles, goals and functions. They also enable the Assembly to make informed decisions and enrich the quality of debates and contribution in plenary in addition to providing an environment for members to utilize and sharpen their expertise.

Mr. Speaker, Sir, it is therefore my sincere wish to forward this report to the House for approval and wish all the Hon. Members nominated to new committees good luck as they offer their service in the remaining session of our parliamentary term. Thank you, Mr. Speaker, Sir.

Hon. Speaker: Hon. Members, the motion is now on the floor for debate. I think we now know how to debate on these motions. A guiding principle is that the membership can only be rejected in whole or admitted in whole. I open the floor for contributions.

Hon. Ndeto: Mr. Speaker, I stand to seek clarification from the Chair on assembly party, more so when it comes to discharge of members from committees. According to the Order Paper, particularly page two, number eight, paragraph three, it states: “Mr. Speaker, informed that the committee on selection is in receipt of several discharge cases as effected by assembly parties pursuant to Standing Order 156.” Where I need clarification from the Chair is just that point about assembly parties.

When you go to interpretation in our Standing Orders 2 (1) (a) “assembly party” means a political party or a coalition of political parties consisting of not less than five percent of the membership of the assembly.” That is the definition of an assembly party.

For the last three years, we have done a lot of business in the House and when it comes to voting, you find that there are members who are not in a coalition, so they cannot vote when it comes to party matters. When it comes to discharge of a member from a committee, a member is discharged from his committee by a leader of the assembly party in which, according to the Standing Orders, he does not belong to. So I need a clarification from the Chair about that. Thank you.

Hon. Nganga: I am rising to seek a clarification in line with the report that has been tabled on page 3. I seek to understand, which Standing Order the committee relied on in effecting the relinquishment of committees because, Mr. Speaker, the Standing Orders provides for the House Business Committee and the Assembly leaders to nominate members to various committees and once nominated, there is a procedure of members to be removed from those committees.

Are we abusing the Standing Orders of this House by allowing the selection committee to sit and remove a member from a committee without that member having not resigned from the committee or the due process of the member to be removed from that committee being followed? I find under the relinquishment of committees, that abuses the process of Standing Orders and it should be reverted. I seek your guidance on the same.

Mr. Speaker, in furtherance of the sentiments of the member for Kola ward, it is understood that five percent of every assembly party, as outlined in the Standing Orders,

represents one member of a party. Which procedure was followed in us being consulted? Like in my case, where I am the only member from NARC Kenya, and Mr. Speaker, there was no official communication from my end. I think your guidance on this matter will suffice.

Hon. Speaker: Any other different matter? Yes, Hon. Kathinzi.

Hon. Kathinzi: I am also rising on a point of clarification, on the report which has been read by Hon. Mwonga, page 3, where we have discharge of membership from committee whereby Hon. Francis Matheka was discharged from Ward Development Fund committee and in replacement of the seats resulting from discharge, you find the same Hon. Francis Matheka just being returned to the same committee. Hon. Isaac Muinde has been discharged from Transport, Public Works and Ward Development Committee and the same member, in replacement, is also returned to that particular committee. They just went to sit down and start playing around with their time. I also want to get that clarification.

Hon. Speaker: Hon. Kathinzi, you appear to have the answer that they are playing around with their time. I think you would have waited for the Chair to rule on that matter.

Hon. Kathinzi: Mr. Speaker, with a lot of respect, we are reading the same thing all through. You remove, you return.

Hon. Speaker: Hon. Members, I will consider the points raised particularly on the matter of the assembly parties and divides of members as envisaged and I will guide the House on the matter coming Tuesday. Consequently, therefore, debate on this subject will proceed on Tuesday.

(Applause)

ESTABLISHMENT OF PASTEURIZER AND MILK CHILLERS

(Hon. Kavuu on 23.06.2016)

(Resumption of Debate on the Motion tabled on 23.06.2016)

Hon. Muli: Mr. Speaker, I had already read the report for milk chillers. It is only the continuation of the debate. Thank you, Mr. Speaker.

Hon. Speaker: Hon. Members, this is a report whose debate continues as the chairman has indicated so I welcome further debate on the report. Hon. Kathinzi, I remember this was your report. Sometimes back you were interested, so you can open the debate.

Majority Leader (Hon. Mwonga): Mr. Speaker, we have just come from recess and I don't think members have the report in their minds. I want to propose that you give this Hon. House some time they go through the report and refresh their minds on the same. Otherwise, we

will be debating on something we don't know, like I don't know whether the report was tabled in this House, Mr. Speaker.

Hon. Speaker: But Hon. Kathinzi was almost giving us valuable contribution on the matter.

Hon. Kathinzi: Mr. Speaker, I think being the first day of this session, it is good to agree with the Majority Leader because it has just been laid by the chairman, Agriculture committee. I can remember it is the report for chillers. I brought this motion to this House, but it is good having mentioned the report on the floor of the House, for the members to go and revisit it again so that we can have a materialized debate when you allocate the date.

Hon. Speaker: Thank you. Then Hon. Members, I think we are all in agreement that members can be given a moment to refresh their memories and the office of the Clerk will supply fresh copies and the matter will stand adjourned and be listed in priority by the House Business committee.

ADJOURNMENT

Hon. Speaker: In the absence of any additional business, the House adjourns.

The House rose at 3.13 p.m.