

Kitui County Assembly

THE HANSARD

First County Assembly – First Session

Thursday, 11th July 2013

The County Assembly met at 2:30pm

[The Deputy Speaker (Hon. George Ndotto) in the Chair]

PRAYERS

(Communication from the Chair)

The Speaker: Honourable members, I think before you went to Mwingi early this week, through maybe some of you, you had discussed the issue of a joint meeting between us and the Governor's office today. I talked to the governor yesterday and we agreed that the MCAs and the executive members of the Governor and the Governor himself will meet together today for a get-together session to know each other. And therefore, we will be meeting with the Governor's office or officers at 6 o'clock at Globe Cinema...

(Laughter)

The Speaker: Ah, no! Not Globe Cinema...
Yes there's a place called Globe Cinema in Kenya.

(More laughter)

The Speaker: There is a place called Globe Cinema in Kenya for those who don't know it, and it's a good place; when you go to Nairobi you can go there.

JICA, we are meeting at JICA at 6 o'clock. Please be punctual and if possible, after the house interrupts the business, you can remain behind and maybe discuss a few things you want to discuss with the Governor, although I don't know whether it will be a discussion or what, but you can discuss a few things you want to raise with the Governor and agree on the

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way forward when you meet him, so that at least there's a coordinated approach or a guided approach during your discussions.

The other thing is about the workshop. I think we have tentatively, through your representatives, I believe we've agreed that we'll have the workshop here. I hope that is now agreed; we're not going to have small *Kamukunjis'* to change the decision. I am working on that one and most likely I will communicate to you the final position by tomorrow morning because the County Assembly Service Board will be meeting shortly after this to make a decision on that issue because it's an issue of the board, it's not the issue of the Speaker or anybody else; then after that decision I'll let you know tomorrow the way forward when we meet at 9 o'clock in our *kamukunji*. That is all I wanted to say by way of statement from the Chair.

Next Order.

County Assembly Clerk: Messages.

The Speaker: Are there any messages?

Next Order.

County Assembly Clerk: Petitions.

The Speaker: Do we have any petition?

Honourable Kilonzo.

Hon. Kilonzo: Mr Speaker Sir, this is a petition to have access road Mwambani-Mbakoni-Isyoni connected to Kibwezi-Mutomoto-Kitui bypass of the Northern Corridor. I Peter Kilonzo...

The Speaker: Honourable Kilonzo, you want to lay the petition on the table? I'll give you time to talk about it.

Hon. Kilonzo: Right.

The Speaker: Can you lay the petition on the table?

(The Honourable Member lays the petition on the table and resumes his seat)

The Speaker: Umekosa adabu kidogo Kilonzo! Ulikuwa ukaweka na ukarudi, lakini hukufanya hivi... (Signals bowing action).

(Honourable Kilonzo stands and bows)

The Speaker: It's okay, it's okay, don't...

Next Order.

County Assembly Clerk: Papers.

The Speaker: Any papers to be laid on the table?

Next Order.

County Assembly Clerk: Notices of motions.

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The Speaker: We said we'll suspend motions until we have a workshop.

Next Order.

County Assembly Clerk: Statements.

The Speaker: Any personal statements.

Next order.

County Assembly Clerk: Motions and Bills.

Any Motion, any Bill?

Right! Before I allow Honourable Kilonzo to say something about his petition to the House, I'll again as usual as we did yesterday allow you if you have anything of importance you want to bring to the attention of the house, to the attention of the county or something you want to say which is not of a personal nature; something for the benefit of everybody, I'll give you some few minutes - you can talk about it.

You see there is need now for a workshop because if you'd have gone through that workshop, it would be a competition who will get first opportunity to say what, I'm sure. Because there are a lot of things you need to say about your county, about your wards about many many things, but you are not sure whether you should say them or not.

Nilikuwa naona kama kulikuwa na mkono hapa? Yes...

Hon. Mulongo: Thank you Mr Speaker, I wanted to pass this information to the house. It's a kind of a complaint from the Committee on Environment, Energy and Mineral Development. In our files, we met a letter from the office of the Governor informing us about the Commission on Revenue allocation's visit to Kitui County. They have specified some wards to visit, mostly those wards which have some activities going on like minerals and the sand harvesting. Most of the activities they want to go and visit falls under the Committee of Environment, Energy and Mineral Development. I wanted to inform this house that us as the committee of this house have not been informed about these visits and we have not also been involved in planning for this. For the purpose of us as a committee to have the relevance we have, we need to request the house to support us for any activities which will be going on in our county concerning environmental issues or mineral issues for this committee to be involved. Because like now I'm being invited like any other person and we are the ones who are leading in these issues in this county.

Mr Speaker Sir I wanted members to get this information, and if they can ventilate on it a bit, if you allow us, Mr Speaker, I think it will be important for us.

Thank you Mr Speaker.

The Speaker: I am not sure whether I understood what Mulongo's concern or request to the house is. Did you? Is there anybody who

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understood him and wants to say something? Maybe Kilonzo you got wind of it?

Hon. Kilonzo: Mr Speaker Sir there is a visit which is to be done by the Commission on Revenue Allocation and the letter seems to be signed by the Interim County Secretary, so it comes from the executive wing. And what they have done is that, I think they have given a number... I don't know if what I'm seeing here is what appears in every letter; there are only 10 or 20 wards which have been invited for this, because the CRA, that is the Commission on Revenue Allocation seems to be interested in some mining sites, agricultural sites and that kind of thing. So that's the reason why I think the chairman or the member of the Natural Resources Committee is reporting to this house that they were not involved. But if you can allow me to comment on what he said...

The Speaker: Go ahead!

Hon. Kilonzo: Sorry?

The Speaker: Go ahead.

Hon. Kilonzo: I personally thought that it is not an agenda for this county who has called this meeting; it is a visit which is being done by CRA, and I thought they are the ones who know what they want and that is... this is my opinion – that is why they have invited particular wards and not just even the member of Natural Resources Committee Mr Speaker. So maybe if you don't have a copy I can maybe...

The Speaker: Can I have a look at that copy?

Hon. Kilonzo: Yes Mr Speaker.

(Honourable Kilonzo approaches the Chair to hand in the letter and the Speaker studies it carefully for a few minutes as members consult)

The Speaker: This letter is totally Out of Order!

(Applause to the affirmative)

The Speaker: This letter is totally Out of Order!

You know it is extremely unfortunate that the letter is written by none other than the Secretary of the County! It is completely Out of Order! Don't you agree with me?

(Members applaud again in agreement)

The Speaker: It is completely Out of Order!

The County Secretary has no mandate to write to individual MCAs to ask them for meetings and to even arrange for a courtesy call to the County

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Assembly without the knowledge of the Speaker! How can you do that? I'm sorry I'm very embarrassed by this kind of a situation. He's talking of inviting MCAs to a meeting, he doesn't know when we meet; he thinks you can just walk out of this assembly and go have a meeting! He thinks it's as simple as that? He thinks he can arrange for a courtesy call on the County Assembly without the knowledge of the Speaker?

(Members loudly express concern and disapproval of the letter)

The Speaker: Ladies and gentlemen, this letter is Out of Order, and I'll address it to make sure this does not happen again in future. I'll address the matter! Thank you very much for bringing it to my attention.

Yes Jane.

Hon. Jane: *inaonekana, vile tunavyojua ni kwamba ni lazima protocol ifuatiliwe. Na ni kama nyumba ijengwe kulingana na vile wenyewe waliko. Ile kitu nimeshuhudia saa hii si kitu mzuri. Na ni ya kwamba, huyo mtu sijui nani... the Secretary; Muli. Ni kama anabehave vile alikuwa nanafanya huko kwao. Ya kwamba tunaunderstand alikuwa DC na ni kama anataka kutoa amri, na hapa hakuna amri. Na ile ningeuliza mheshimiwa Spika ni kwamba ieleweke vizuri; hii ni bunge na lazima iheshimiwe, na kila mtu apatiwe heshima zake, kuanzia kwa Gavana kuteremka. Na kama ni communication ipitie channel yake.*

The Speaker: *Nashukuru* for that comment. Ladies and gentlemen, this is a serious matter; put it this way – can I make arrangements for a courtesy call to the Governor, or can I arrange to go for a visit somewhere with the County Executive without the knowledge of the Governor? Can I?

(Members respond to the negative)

The Speaker: What makes this gentleman think he can make arrangements to regulate our movements or our functions without the knowledge of the institution? What makes him think he has the right to do that?

I don't want to discuss because this is a parliament and you know normally you cannot discuss somebody who is not here without a substantive motion. But this letter is totally Out of Order! We are not as a parliament or as an assembly supposed to discuss somebody who is not in the house without a motion, so we leave it there... don't comment on this anymore.

Mr Ngwele.

Hon. Ngwele: Mr Speaker Sir, thank you very much. You have rightly said that you are very embarrassed. I have personally been very

embarrassed a number of times by the level of ignorance of the government in this county; officers of the government in this county, on the structure of the County Government and the protocols. To give just a small example; I and the Honourable Eunice Mwathi went to visit one of the Ministers just for an informal conversation and we went to a director of a very important department in this county, and when the Minister introduced us, that directors asked “are these your committee members?” Asking the Minister “are these your committee members?” How many other committee members do you have?” a director of a very important department in this County Government does not know that there are two arms of government. In this county and he does not know that we are an assembly that mirrors the National Assembly and has committees. He thought that we are some people collected from a village somewhere to make committees for the Minister. So really, the ignorance runs very deep and it is very serious, and very embarrassing. Mr Speaker we want to appeal that something is urgently done about that, because we are two arms of government and a lot of times the left hand does not know what the right hand is doing or does not know how to relate. So it is possible that we need a workshop. You’ll forgive me because I come from an NGO background and we believe so much in workshops. We need a workshop on structure of government and protocols so that moving on, anybody who does the kind of thing that we’ve seen just this afternoon in the house will deemed to be acting in contempt to our institution. Maybe for the time being it’s actually ignorance. Although ignorance is said to be no defence in law, but we need to have a forum where we share information, where we get them to understand. A lot of people in this government and in this country actually have not read the constitution and do not know how the County Governments are structured. I get calls from very senior people asking whether we have our offices in Nairobi, and for heaven’s sake I ask them; what I would be elected by the people of Ngomeni to go and do in Nairobi? Our assembly doesn’t sit in Nairobi. So this is a symbol of something that runs deeper in our community and in our county and it needs to be dealt with Mr Speaker because it’s very embarrassing indeed.

Thank you Mr Speaker.

The Speaker: Yes Mr Mbiti.

Hon. Mbiti: Thank you Mr Speaker. Mine is... I’m not going to touch more about that letter, but I wanted also to put across an advice to Honourable Members. We can sit here in this house and start complaining a lot about lack of respect, lack of being responsible, but we miss a point of even thinking about ourselves Mr Speaker. It’s not about this letter only, because we’re having some informations that are coming to this house, and they come to the members and it just moves around here. It is an advice to

the members to go through the Standing orders and to understand or to get informed on how you should handle information when it gets to the house. Mr Speaker this letter should not have been introduced to this house during this time. If a member has got such information, there's a channel also to bring that information to you earlier. So I think we should go through the Standing Orders so that we can understand. People make mistakes, but also we members we should be conversant about that one. If we give you any information, you don't correct a wrong with another wrong. So Mr Speaker I was just advising Honourable Members that they can still play a role in putting the mistake in order.

The Speaker: I think you can rest assured that I'll put the record straight so that the dignity of this house is strictly observed by everybody, including everybody. We should not be taken for granted; we cannot be told what to do, when or where. I think it should stop; you are Honourable Members of the Kitui County Assembly with distinctive functions to perform, mandated by the constitution. And you have to do it with dignity, and everybody has to respect that.

Now anybody else with anything he wanted to say, so that we can allow Honourable Kilonzo to tell us a bit about his petition from his people. The petition is supposed to come from the people, not from the Honourable Member; the Honourable Member is a conduit, just a messenger to bring a petition from his people, a petition to this assembly that something is wrong somewhere – “we've been crying, we've been pushing, nothing is being done. Can the assembly please come to our assistance?” Those are the kind of petitions; pleading with the house to look into an issue which has troubled your people, a genuine case, not just any case – a genuine case which the house will find it fit to discuss and if need be pass a resolution and require that resolution to be implemented.

So let's listen to Kilonzo and hear what he has to say about the petition from his people.

Hon. Kilonzo: Mr Speaker sir before I go into the petition and not taking people back, I wanted also to comment on the amorphous communication we're getting in this house. I wanted also recommend that the staff handling our files to be maybe reporting to you, because in our files we receive some communication that we feel may not be in order if they don't first report to you.

Now back to the petition Mr Speaker. This petition is about an access road which runs over the plateau, one bordering Honourable Nzuki Wambua and stretches though the...

The Speaker: *Hiyo mic yako ni mbaya...*

Hon. Kilonzo: I know really there are a lot of IT guys here; Honourable Ngwele feels like he should come and speak for my petition. Mr Speaker you must protect me from Mr Honourable Ngwele.

(PETITION BY HONOURABLE PETER KILONZO: To have access road; Mwambani-Mbakoni-Kisyuni connected to the Kibwezi-Mutomo-Kitui bypass of the Northern Corridor)

Hon. Kilonzo: Now, petition to have access road; Mwambani-Mbakoni-Kisyuni connected to the Kibwezi-Mutomo-Kitui bypass of the Northern Corridor Mr Speaker.

I Peter Kilonzo, Member of County Assembly for Athi ward, Kitui South constituency, Kitui County and others do hereby petition the County government of Kitui through their departments; Kenya Rural Roads Authority of Kenya National Highways Authority as per schedule four of the constitution of Kenya on the County Transport and public works that as a matter of urgency, Mr Speaker, the access road Mwambani-Mbakoni-Kisyuni be connected to the bypass I mentioned on the following basis:

1. Serious violations of the constitution of Kenya.
2. Discrimination of the highest order for the inhabitants of this region.
3. Total abuse of human rights to the people living here.
4. Incompetence and irresponsibility of the government's departments to this region.

The above constitutes the grounds as follows:

The County Government of Kitui has through their departments Kenya Rural Roads Authority (KERRA) or the Kenya National Highways Authority (KeNHA) violated the constitution by:

1. The preamble of the constitution of Kenya, if you read the preamble of the constitution of Kenya.
2. Chapter one and article one and two of the constitution.

Fundamental Bill of Rights for the people enclosed in this region as following:

1. Article 27 of the constitution of Kenya.
2. Article 28, Mr Speaker.
3. Article 29.
4. Article 39 and
5. Article 43

As stipulated in the constitution of Kenya.

In addition, that the people living in this extended region have seriously been discriminated against, and the County Government of Kitui should ensure that the eight primary schools and the 10 ECD centres and various

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shopping centres which are not accessible can be accessed. The failure is due to just a small hill of 400 metres which we feel can be flattened by the county machinery of works in one hour, which has made life for this people of this region unbearable.

- a) The sick, the weak and those in labour pains cannot access medical attention easily Mr Speaker.
- b) In case of death, the inhabitants of this area carry their dead on their backs.
- c) The motorcycles which can access the region charge exorbitantly Mr Speaker.
- d) Economically, the region is agriculturally recommendable as it is on the plateau; Yatta plateau, but its produce cannot get to the destined markets Mr Speaker.
- e) The local institutions available here, Mr Speaker, lack staff and necessary facilities because of its location.
- f) Access to social amenities faces a major challenge because all the points are downhill.
- g) Development of this region is and will remain a challenge if this monster hill is not flattened to connect the region to the rest of the area.

Now therefore Mr Speaker, your humble petitioners pray that the County Assembly finds that:

1. The County Government of Kitui, via their departments Kenya Rural Roads Authority and Kenya National Highways Authority have contravened the aforementioned articles of the constitution of Kenya and the Bill of Human rights.
2. And that the two departments have seriously discriminated the mentioned area which needs to be opened to the rest of the county for economic and social activities.
3. That the relevant House Committee; Lands, Infrastructure and Urban Development which is led by Honourable D'Souza Kililiku meets the Cabinet Secretary for Public Works to pay the area a visit and set aside some funds in this financial year to facilitate the linkage of this region to the Northern Corridor bypass.
4. And finally, the departments of the County Transport and Public Works: KERRA and KeNHA be found incompetent in this region and compelled by this house or the committee or the Cabinet secretary for an immediate action to ensure freedom of movement and freedom of association to the people living in this region Mr Speaker.

Thank you.

The Speaker: Very well. That is a petition of the area of Honourable Kilonzo; residents of the area – the ward which he represents. I'll suggest... I direct the Clerk to circulate the petition to Honourable Members, then I'll see whether I'll allocate sometime next week. For members after they have seen it and read it to see whether it is worthwhile discussing, and see the way forward. So Clerk, you circulate this petition to the members before the next meeting.

Yes... Honourable Mutemi.

Hon. Mutemi: Thank you Mr Speaker. I want to know, Mr Speaker, whether it's in order for that petition to be admitted in the house. Going by Order 195 which reads: The petition can be presented by a member on behalf of a petitioner with the consent of the Speaker and not withstanding paragraph 1 (b) which I read over there, a member shall not be eligible to present a petition on his own behalf.

Thank you Mr Speaker.

The Speaker: Honourable Mutemi, you are Out of Order! I have already got the petition and I have given permission; I read it and gave permission and I have already ordered the Member of Parliament for that ward to make sure before we discuss this, the signatures of the petitioners are appended to this, and they are already there. I want the signatures before we discuss it. Maybe you did not have this information. I have given the permission and he is doing it on behalf of his people, so the requirement of the Standing Orders is met. And I am the Speaker, I have read the petition, I found that it was worthwhile to discuss, I approved it. In fact it was brought it to me by the Clerk not the honourable member. He followed the procedure; he sent it to the Clerk, the Clerk brought it to me and I gave approval for it to be brought here, but I said the name of the petitioners must be appended here with their signatures.

Yes Bwana Mwove...

Hon. Mwove: Thank you Mr Speaker. I don't want to question your ruling, but I don't know if I misheard Honourable Kilonzo because when he stood there and started talking, he was very specific; he said "I Honourable Kilonzo, together with..." that was point number one, and when you stood you informed us that if a petition is to be brought here, he is a conduit but he may not be part... I'm just trying to quote what you said, but he said "I Honourable Kilonzo..."

The Speaker: Honourable Mwove!

Hon. Mwove: Yes Sir!

The Speaker: Honourable Kilonzo is part of that ward! And he can be part of that petition, let's not talk of things which are not...

Hon. Mwove: Thank you.

The Speaker: Honourable Kilonzo or you for that matter are part of your ward's problems and you can be part of the petitioners. The fact that you are the County Assembly Member does not mean that you cannot bring the petition together with your people.

Anything else other than that petition?

Therefore, because I'm sure that you want to do a bit of *Kamukunji* before you meet the Governor... or you don't want to do a bit of *Kamukunji*? I'm sure you want to talk a few things, but a word of advice, a word of caution as your Speaker; you are going to meet the Governor, the main purpose of meeting the governor is to create that understanding – bonding. Create the understanding of each other so that you'll now be working together. You meet the Minister for this, or the Chief Officer for that, you meet this, they meet you, you talk, you go and look for the Minister in charge of this department... the idea is to interact, to get to know each other, to introduce each other in the meeting. And therefore it is not a session; "Governor we want you to do one, two, three, four things..." that is not the purpose of the meeting. Maybe whoever will speak maybe on your behalf will say one or two things you maybe want the Governor to take into account as he continues doing his work. But the purpose of the meeting is bonding; getting to know each other. And in so doing, we must carry ourselves with the dignity of the house. We must live to the expectation we want other people to see us – dignity of the house. We must live up to that, if you don't...

I want to say, that meeting if I go there, as far as I'm concerned, the constitution, the law of this country has given distinct functions for every one of us. We as the assembly, there is no confusion as to what we are supposed to do. The executive knows what they're supposed to do. If they do what they are supposed to do and we do what we are supposed to do, we'll find that we need each other more than we quarrel with each other. Because we're supposed to supplement each other to deliver the services to the people. The executive is supposed to spearhead development in the county. You are supposed to spearhead the enabling regulation and rules and oversight to make sure that what they are doing is not only done but is done well and within the law. It is as simple as that, and if you play your role properly, they do theirs properly, *utakuta* you need each other more than you have time for small little quarrels. You'll need to meet more often, you'll need to talk more often, you'll need to discuss more often, and you'll need to consult more often for the purpose of delivering, because the goal is the same – to deliver services to the people. *Matata itakuja mkianza kudharauliana*. You must treat each other with dignity as colleagues in action.

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So thank you very much, I think I'll stop there, allow you a bit of time to wind up your *Kamukunji*. Stand up for adjournment.

Honourable Members, the house stands adjourned until next week Tuesday 16th of July 2013 at 2:30pm.

The County Assembly rose at 4:15pm.