

KITUI COUNTY ASSEMBLY

SECOND COUNTY ASSEMBLY- FIRST SESSION

**OFFICIAL REPORT
(HANSARD)**

SPECIAL SITTING

(Convened by notification vide Gazette notice no. 8881 in the special issue of 11th September, 2017)

Thursday 14th September, 2017.

(The County Assembly met at 2.30 p.m. at the Kenya Forestry Research Institute Offices-Kitui Regional Branch)

(The proceedings were opened with a prayer read by the Clerk of the County Assembly (Mr. Elijah Mutambuki)

PAPER LAID

THE KENYA GAZETTE NOTICE NO. 8881 DATED 11TH SEPTEMBER, 2017.

The Clerk of the County Assembly (Mr. Mutambuki): Good afternoon, Hon. Members and congratulations for having been sworn-in as Members of the County Assembly on 7th September, 2017.

Hon. Members, this is a special sitting convened pursuant to a Consent Order entered into at the High Court of Kenya sitting in Machakos on 8th September, 2017 and which was subsequently published through Legal Notice No. 8881 and dated 11th September, 2017 which I now proceed to read and lay on the Table of the Assembly.

(The Clerk paraphrased the Gazette Notice as follows)

SPECIAL ISSUE

The Kenya Gazette Notice No. 8881

THE CONSTITUTION OF KENYA,

THE ELECTION ACT
(No. 24 (2011))

THE COUNTY GOVERNMENT ACT
(No.17 (2012))

THE KITUI COUNTY ASSEMBLY STANDING ORDERS

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ELECTION OF THE SPEAKER OF THE COUNTY ASSEMBLY

It is notified for the information of the general public that the High Court sitting in Machakos, on Friday 8th September, 2017 vacated orders stopping the election of Speaker of the County Assembly of Kitui.

Consequently, the elections have been rescheduled to be held at the Kenya Forestry Research Institute offices (Kitui Regional Office), on the Thursday, 14th September, 2017 at 2:30 p.m.

Pursuant to the provisions of the Kitui County Assembly Standing Order 5 (5) (a) and (b), it is further notified for general information of the public that the following persons qualify and have been nominated for election as the Speaker of the County Assembly of Kitui”.

- 1.) Benjamin Mwikya Musyoki
- 2.) Daniel Ngoima Kimanzi
- 3.) Munyoki Mwangangi
- 4.) Samson Nyamai Masila
- 5.) Bernard M. Kitindio
- 6.) George M. Ndotto
- 7.) John Muneeni Makau
- 8.) Jeremiah Mumo Kisangau

Hon. Members, allow me to proceed and lay the Paper on the Table of the Assembly.

(The Clerk laid the Gazette notice on the Table)

COMMUNICATION FROM THE CLERK OF THE ASSEMBLY

PROCEDURE TO BE FOLLOWED IN ELECTING THE SPEAKER

The Clerk of the County Assembly (Mr. Mutambuki): Hon. Members Standing Order No. 4(1) of the County Assembly Standing Orders provides that “a Speaker shall be elected when the County Assembly meets after a general election and before the County Assembly proceeds with the dispatch of any other business, except the administration of oath or affirmation of office to members present”

Hon. Members as you aware, the election of the Speaker scheduled on 7th September, 2017 was not possible owing to a Court Order served to us the same day. However, despite that a number of activities for the election of the Speaker were required before the first sitting as provided in the Standing Orders. I will now proceed to detail each such activity and the manner in which we have complied with the standing orders.

Firstly, Standing Order No. 5(1) requires that “upon the Governor notifying the place and date of the first sitting of a new County Assembly pursuant to Standing Order No. 3, the Clerk shall, by notice in the *Gazette*, notify that fact and invite interested persons to submit their nomination papers for election to the office of Speaker.

Hon. Members, vide *Gazette Notice* No. 8399 dated 30th August, 2017, the Clerk of the County Assembly invited persons to submit their nomination papers for the election to the Office of the Speaker.

Secondly, Standing Order No. 5(4) requires that “Clerk shall Maintain a register in which

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shall be shown the date and time when each candidate's nomination papers were received and shall ascertain that every such candidate for election to the office of the Speaker is qualified to be elected as such under article 193 of the Constitution"

I hereby confirm that a register has been maintained in accordance with the requirements of this Standing Order. Any member interested to inspect the register will have a chance to do so.

Thirdly, Hon. Members Standing Order No. 5(5) requires that "immediately upon the close of the nomination period provided for under paragraph (2), the Clerk shall:-

- (a) Publicize and make available to all members, a list showing all qualified candidates; and
- (b) Make available to all members, copies of the curriculum vitae of the qualified candidates.

Hon. Members, I hereby confirm that a list showing all qualified candidates was publicized and made available to all members together with copies of the curriculum vitae of the qualified candidates.

For the position of the Speaker of the County Assembly of Kitui, the following candidates were validly nominated.

<u>NO.</u>	<u>NAME</u>	<u>ID/NO.</u>
1.)	Benjamin Mwikya Musyoki	11640098
2.)	Daniel Ngoima Kimanzi	6818253
3.)	Munyoki Mwangangi	10879970
4.)	Samson Nyamai Masila	26036872
5.)	Bernard M. Kitindio	22134088
6.)	George M. Ndotto	3424194
7.)	John Muneeni Makau	10434809
8.)	Jeremiah Mumo Kisangau	310885981

Hon. Members, Standing Order No. 8 states that "A candidate may, by written notice to the Clerk, withdraw his or her name before a ballot is started, and in the event of such withdrawal, the clerk shall cross-out the name of that candidate off any ballot papers issued for that or any subsequent ballot.

I confirm none of the candidate has officially withdrawn from the race.

Hon. Members, Standing Order No. 6 provides that the election of the Speaker shall be through secret ballot.

Standing Order No. 6(2) says:-

"the Clerk shall, at the commencement of each ballot, cause the ballot box, empty and unlocked, to be displayed to the County Assembly and shall, in the presence of the County Assembly, lock the box which shall thereafter be kept in the full view of the County Assembly until the conclusion of the ballot".

I now direct the Clerks- at- the- Table to cause the ballot box empty, display the same to the Members, and then lock it.

(A Clerk-at-the-Table displayed the ballot box, empty and opened before locking it)

Hon. Members, Standing Order No. 6 (3) requires that the Clerk, shall issue not more than one ballot paper to each member who comes to the table to obtain it, and each member

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who wishes to vote shall proceed to the balloting booth in front and shall, while there, mark the ballot paper by placing a mark in the space opposite the name of the candidate for whom the member wishes to vote, fold the marked ballot paper before leaving the booth area and place the folded ballot paper in the ballot box.

Further, Standing Order No.6 (4) provides that, a member who before the conclusion of a ballot has marked a ballot in error may, by returning it to the Clerk, obtain another in its place and the Clerk shall immediately cancel and destroy the paper so returned.

Hon. Members, we are now proceeding to elect the Speaker. Once your name is called, kindly proceed to the table on my left where you will sign the voter register, be issued with a ballot paper and proceed to cast your vote.

I now call upon the table clerks to start the process.

(The names of MCAs were called out, ballot papers were issued to them and they proceeded to vote)

The Clerk of the County Assembly (Mr. Mutambuki): Thank you Hon. Members, I want to know if there any of the 54 Members of the County Assembly who have already been worn-in whose name has not have been called out? If there is such a case, I kindly request the Member to come forward.

(Silence)

Hon. Members, Standing Order No. 6(6) provides that, when it appears to the Clerk that all members who are present and who wish to vote have placed their ballot papers in the ballot box, the clerk shall unlock the box, examine the ballot papers and, having rejected those unmarked or spoilt, report the result of the ballot; and no member who has not already recorded his or her vote shall be entitled to do so after the Clerk has unlocked the ballot box.

Further, standing order No. 6 (7) provides that, "a ballot paper is spoilt if in the Clerk's opinion, it does not identify the candidate purported to be selected by the member voting".

Standing Order No. 7 (1) provides that a person shall not be elected as Speaker unless supported in the ballot by the votes of two thirds of all members.

Thus, for any of the 8 candidates to be declared a winner and Speaker of the County Assembly in the first round must garner at least 36 votes.

Hon. Members Standing Order No. 7(2) requires that if no candidate is supported by the votes of two-thirds of all the members, the candidate or candidates who received the highest number of votes in the ballot referred to in paragraph (1) and the candidate or candidates who in that ballot received the next highest number of votes shall alone stand for election in a further ballot and the candidate who receives the highest number of votes in the further ballot shall be elected Speaker.

Hon. Members we can now proceed to count the votes. It is important to note that in a run-off the election will be determined through a simple majority. Thus, if we do not get a simple majority, the exercise will be repeated until that is achieved.

I now direct the balloting Box to be unlocked, the contents emptied and the procedural clerks appointed to represent the 8 candidates to come forward for the purpose of collecting the candidates votes after being loudly announced and prominently displayed to the Members by a Clerk-at-the-Table.

(A Clerk-at-the-Table opened the ballot box and

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proceeded to count the votes)

*(The Clerk of the County Assembly (Mr. Mutambuki)
announced the results of the first ballot as follows: -)*

<u>NAME</u>	<u>VOTES</u>
Benjamin Mwikya Musyoki-	9
Daniel Ngoima Kimanzi-	0
Munyoki Mwangangi-	1
Samson Nyamai Masila-	1
Bernard M. Kitindio-	14
George M. Ndotto-	29
John Muneeni Makau-	0
Jeremiah Mumo Kisangau-	0

The Clerk of the County Assembly (Mr. Mutambuki): Hon. Members, thank you for your cooperation so far. Allow me to proceed with the reading of what the Standing Orders provides regarding the election of the Speaker.

Standing Order No. 10 provides that; Immediately the results are declared, all the ballot papers used in the election of a Speaker shall be packed and sealed in the presence of the County Assembly and kept in the custody of the Clerk for a period of six months and shall thereafter be destroyed. I now direct the Clerks-at-the-Table to collect the 54 ballot papers and seal them in the ballot box.

*(A Clerk-at-the-Table collected and sealed
the ballot papers)*

Hon. Members, since no candidate has been supported by the votes of two-thirds of all the members which is 36 votes as required under Standing Order 7(1) we will therefore proceed with a run-off as provided under Standing order No. 7 (2).

The run-off will be between Bernard M. Kitindio and George Mutua Ndotto.

Hon. Members, we are ready to start off. The balloting will be conducted in the same manner applied in the first round. I ask the *Clerks-at-the-Table* to display the ballot box, empty and unlocked.

*(The Clerks-at-the-Table displayed the ballot box, empty and
opened)*

I direct that the ballot box to be locked and be kept within the view of the Hon. Members.

(The Clerks-at-the-Table locked the ballot box)

We are ready to start now. Your names will be called out again and once that happens, you will come to the Table and proceed in the same manner as the first round.

*(The names of Members were called out, ballot
papers issued to them and they proceeded to
vote)*

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Hon. Members, it appears to me that all the Members present and who desired to vote have done so. We can now start counting and tallying of the votes.

(The Clerks-at-the-Table opened the ballot box and proceeded to count the votes)

Hon. Members, Standing Order No.7 (2) requires that the candidate who receives the highest number of votes in a further ballot shall be declared the Speaker of the County Assembly.

(The Clerk of the County Assembly (Mr. Mutambuki) declared the results as follows)

The results for the fresh election we held are as follows. The votes cast were 54. There were no spoilt votes.

NAME	VOTES
Bernard M. Kitindio-	14
George M. Ndotto-	40

The Clerk of the County Assembly (Mr. Mutambuki): Hon. Members, pursuant to Standing Order No.7 (2), I now declare George Mutua Ndotto to be the duly elected as the Speaker of the Kitui County Assembly.

(The Clerk of the County Assembly (Mr. Mutambuki) accordingly declared Hon. George Mutua Ndotto elected Speaker of the County Assembly of Kitui)

(Applause)

I now direct the Sergeant-at-Arms to proceed with dispatch, search and find the said candidate, Hon. George Mutua Ndotto and bring him to the Chamber.

Hon. Members, Standing Order No. 12 provides that; immediately following the election of the Speaker, the Clerk shall administer the Oath or Affirmation of Office to the Speaker in the presence of the assembled County Assembly.

As we wait for the Speaker-elect, I take the opportunity to thank you for your cooperation. The election process went on smoothly. I am convinced that my office did thorough preparation on the exercise, which has been conducted in accordance with the provisions of the Standing Orders and other relevant laws.

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(On arrival of hon. George Ndotto in the Chamber, he was escorted to the Chair by the Hon David Thuvi and Hon Alex Mbili

(On arrival at the Chair, the Clerk thereupon administered the Oath of Allegiance to the Speaker-elect, hon. George Ndotto)

(The Speaker, hon. George Ndotto, then took the Chair, and the Mace, -which before lay under the Table, was placed upon the Table)

(Applause)

COMMUNICATION FROM THE CHAIR

SUBMISSION OF THE SPEAKER TO THE WILL OF THE HOUSE

The Speaker (Hon. George Ndotto): Fellow Hon. Members, the Clerk of the County Assembly, distinguished guests, ladies and gentlemen; Good afternoon. I take this opportunity to thank the Almighty God for the great favour he has bestowed on us.

Hon. Members, I sincerely acknowledge you for the trust, belief, and confidence you have extended which made you to elect me as your Speaker.

The responsibility you have conferred on me is a milestone in my life and I am deeply happy to occupy the position. It is my onus to keep the promise of discharging my duties with fairness and impartiality. I also aspire to serve selflessly in the new capacity. On that premise and conviction, I enthusiastically submit to the will of the House.

Hon. Members, as your Speaker, I vow to fervently preserve the powers, privileges and immunities of the House without which optimal performance shall be greatly compromised. I shall also defend and uphold the dignity of this House, and ensure persistent adherence to the Constitution and other laws including the Standing Orders that aid in the management of the business of the House. My prayer is that I shall successfully steer this House to greater heights for the benefit of our people; the esteemed residents of this County.

Hon. Members, I wish to congratulate you all for having emerged victorious in the hotly contested general elections. I know that you went through a rigorous campaign and I applaud you for securing an opportunity to serve both as elected and nominated members of the County Assembly. I believe that Members of the exited First Assembly who got re-elected to this House and deserve a standing ovation gained a valuable experience and will play a role in mentoring the new members. We shall together forge ahead in ensuring that the objects and principles of devolution as outlined in Article 174 and 175 of the Constitution are achieved.

Hon. Members, Article 185 of the Constitution as read together with Section 8 (1) (b) of the County Governments Act, No. 17 of 2012, vests the legislative authority of a County Government in its County Assembly. It is therefore important to note that the County Assembly is responsible, for among other duties, making laws that are necessary for, or incidental to, the effective performance of our County Government as per the Fourth Schedule of the Constitution. For this reason, it is imperative that we should maintain confidence in our people by objectively performing the three fundamental roles of the County Assembly, which are, legislation, oversight and representation.

Hon. Members, you will soon be assigned to serve in the committees of the County

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Assembly and I urge you to offer candid and responsible oversight to the County Executive. I therefore call upon the political parties represented in this House to speed up the nomination of members who will serve in the various committees. My office and that of the Clerk will be ready to offer the necessary guidance.

Hon. Members, your cooperation and respect to the principle of separation of powers will be fundamental while overseeing the County Executive and that will ensure successful performance by the County Government.

I am aware of the challenges that lie ahead. However, I believe that you will be able to deliver on your duties. It is only by working together that we shall be able to achieve our goals. The operation of this House is guided by practices and procedures contained in the Standing Orders and which shall be guiding us while executing our mandate.

Hon. Members, I ask you to join me in congratulating the Office of the Clerk of the Assembly. I am sincerely humbled by the manner in which the office has ably presided over the entire process. You will agree with me that employees of the Assembly under the astute leadership of the Clerk have demonstrated proper understanding of parliamentary procedures and practices during the orientation and swearing-in exercises of the new Members held on Tuesday 5th and Wednesday 6th September 2017 and the just election of the Speaker.

As the Chairperson of the County Assembly Service Board, I commend you and urge you to continue serving the Honourable Members the same way to enable them to discharge their duties effectively and impartially as witnessed during the occasions.

Hon. Members, as I conclude, allow me to thank the members of the public seated at the Speaker's and public galleries for gracing this historic occasion which comes only once in a period of five years. This Assembly will be an institution of the people. Our doors remain open to the public.

Finally, Hon. Members, I would like to quote the words of a famous Greek historian who said: - *"Those who know how to win are more numerous than those who know how to make proper use of their victories."* The victory is now behind us. Of essence for us from now onwards will be to collectively make proper use of the victory to serve the people whose interests should come first. The service to the people shall ultimately become the yardstick against which Kitui residents shall judge the County Assembly.

I wish all of us the very best in our future deliberations and I know that with the Lord on our side, we shall deliver. May God bless Kitui County Assembly, our beloved County and the entire Kenya. Thank you!

*(The Speaker (Hon. George Ndotto,) having
read the official speech)*

Ningetaka kusema ahsante sana to all of you without exception for your involvement in one way or another and directly or indirectly to elect me as the Speaker of the County Assembly of Kitui which is for a second time. I most sincerely thank you for that.

Secondly, I want to say that I will be your servant. As I said when I was campaigning, I will be there to assist and facilitate you to deliver on your mandate. That is my main duty in this assembly.

Finally, I will honour the promises I made to you during the campaign period. In the unlikely event that I fail to fulfil a certain promise, I will let you know the reasons and that way we shall understand each other.

Niko na furaha kubwa sana. Tuko pamoja, tutaanza kazi pamoja na tupange mipango yetu ya kazi pamoja.

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I can see I have a very vibrant House. This Assembly is the main authority of the County Government of Kitui. This House before implementation for example must approve all the major policy and budget decisions in the County.

(Applause)

I want to state without any fear of contradiction that we shall deliver on our mandate. We shall ensure that the County Executive will be assisted to deliver on their mandate as well. There will be no confusion whatsoever regarding the responsibilities of the County Executive and those of the Assembly. There must be boundaries regarding the responsibilities of each arm of the County Government as enshrined in the laws and which each entity must stick to for us to succeed as a County.

With those remarks Hon. Members, *Mungu awabariki na ahsanteni sana.*

NOTIFICATION ON OFFICIAL OPENING OF THE COUNTY
ASSEMBLY

Hon. Members, Pursuant to provisions of Standing Order No.13, I hereby notify you that the County Assembly shall officially be opened on Tuesday, 3rd October 2017, at the Kenya Forestry Research Institute Offices (Kitui Regional branch) at 2.30 p.m.

ADJOURNMENT

Hon. Members, this House now stands adjourned until Tuesday 3rd October, 2017, at 2:30 p.m.

The County Assembly rose at 5.05 p.m.