



REPUBLIC OF KENYA

MAKUENI COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – First Session

Special Sitting

Tuesday, 15th October, 2013

The House met at 2.30 p.m

[Hon. Speaker (Stephen Ngelu) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

HOUSE SITTINGS

Hon. Speaker (Stephen Ngelu): Hon. Members, I have a communication from the Chair. The first one refers to our status as regards our sittings. You know that we are not having our sittings at the normal Assembly precincts due to a number of factors; one being renovation. The other one is because of security risks experienced sometimes back. We are holding our Special Sittings, you know that we are not in session, we are on recess, but this is a Special Sitting that was called today to deliberate on a few Motions that are very critical in our County and after that then the House adjourns *sine die*, just like the other Members are doing.

MAKUENI COUNTY BUDGET

We also have noted that today the Senate went on a Committee of the whole House to debate on issues of our Assemblies in Kenya and it was well deliberated. They have communicated to the SRC and they have also communicated to Makueni County as regards the statement that is there as far as the budget is concerned. So this is now a national issue. The two issues are national

issues and they are being handled very well. I am also informed that the Assembly Committee that was appointed to negotiate with the SRC as far as our budget is concerned had a successful meeting and this was very well concluded and the Members of the Assembly who represented us had agreed on a ceiling for the Assembly at about 601 million for the Assembly. So, the Executive side was supposed to increase the budget with the required percentage.

APPROPRIATION BILL

Lastly, you note that on 30th September we passed a supplementary budget with an appropriation Bill and we forwarded the Bill to the Governor for assent. The law requires that the Governor assents to that law within 14 days from 31st. So, from 30th, the day we passed it, the 14 days were ending yesterday. We have not received any communication from the Governor's side and the law requires that if there is no such communication within the 14 days then the Bill becomes law --- *(Applause)* so, our Bill by yesterday became law and I will direct the Clerk to take it for publication as from tomorrow because it is law. Any other amendments we are going to make on the budget must comply with that supplementary budget as per the law. The Assembly is a House of rules and procedures and there is no single day that we will go against the rules we make and procedures. So, that supplementary budget and the Appropriation Bill that we passed on 30th it became law yesterday, because we did not get any communication from the Executive. That is now the position of this Assembly today.

So those are the few communications I got from the Chair today and with these ones the door is still open for the Budget and Appropriation Committee to have further negotiations with the Executive. Wherever or whatever they do will come as another supplementary budget of what we passed and that is the law. That is exactly what is done; that is the law. So, nobody can stand in front and challenge us because that is the law. They cannot also say that we cannot do this. We are going to seek advice on what happens after that supplementary budget. What duration are we given to make another supplementary budget?

Lastly, the Controller of Budget, and this is the source of the communication from the chair, has drafted a letter to the Executive as regards our funds the position is that our funds must be released. That is the position of the Controller of Budget. -- *(Applause)*. I will link up with her over the same issue as she called me at around 2.00pm and told me that it is ready and she is going to sign it together with the opening of an account at Central Bank. She is giving me directions to assist in opening. That is what I have for you today. So, next order?

NOTICES OF MOTION

Hon. Speaker: I call upon Hon. (Dr.) Martin Masila to give notice of Motion.

Hon. Member for Thange Ward (Martin Masila): Thank you, Mr. Speaker sir, I beg to Move a notice of Motion: **THAT** pursuant to Article 181 of the Constitution as read together with section 33(1-10) of the County Government Act 2012 and Standing Order 59 and 60; whereas the Constitution of Kenya in Article 181 as read together with section 33(1-10) of the County Government Act 2012 provides for the removal of the County Governor; aware that the County Governor of Makueni was established under Article 6(i) and Article 176 of the Constitution of Kenya 2010; aware that the Makueni residents elected their Governor who was sworn in the office on 27th March 2013 to execute his mandate pursuant to Section 30 of the County Government Act 2012; concerned that the Makueni County Governor, H.E. Kivutha Kibwana has contravened the law behaving in a manner not warranted of a state officer and has continued to abuse his office, this Assembly resolves to remove the Governor from office on the following grounds:

- i. Physical or mental incapacity to perform the functions of office of County Governor as contemplated in Article 181 of the Constitution of Kenya 2010;
- ii. Roadside snatching of keys of the assembly vehicle especially number KAW 234 Z from the designated driver without the due procedures and a formal communication and handing over of the Government assets contrary to state officers code of ethics and creating suspicion about his mental capacity;
- iii. Sponsored hooligans who threatened to rape and sodomize Members, assaulted and abused Members while in the Assembly ---(*Applause*) during the session of 30th September 2013;
- iv. Uncouth behavior of personally ordering the removal of a grill gate erected at the gate of the Assembly to enhance security for the Assembly without following the due process of consultation and separation of powers;
- v. Grabbing of parking bays that is meant for the Assembly and erecting of labels indicating no parking at the Assembly gazzeted precincts
- vi. Inciting the public at the local FM radio stations against the Members of the Assembly regarding the Assembly mandate of legislation, representation and oversight hence creating bad blood between the Members and the public;
- vii. Personally suspending some officers of the County without following due process an issue which may resort to labour tussles and finally bring heavy

losses in terms of compensation of the affected staffers resulting into misuse of public funds;

- viii. Banning of sand harvesting without putting in place proper structures resulting to loss of revenue amounting to millions of money;

(Applause)

- ix. Abuse and assault on the office of the Clerk to the County Assembly;
- x. Failure to provide leadership, peace and order and management accountability pursuant to section 30 (3a-g) of the County Government Act 2012 and here therefore we are giving seven days' notice pursuant to standing Order 59(2) that the relevant organs begin investigations to determine the physical or mental capacity of the Governor to perform functions of his office. Thank you, Mr. Speaker.

(Applause)

Hon. Speaker: Thank you, *Mheshimiwa*. I direct that Motion to the relevant Committee on Health to look at it and make the follow up required in law. Hon. Sammy Maseka?

Hon. Member for Wote Ward (Sammy Maseka): Thank you, Mr. Speaker. I beg to give notice of the following Motion; pursuant to Article 181 of the Constitution as read with section 33 of the County Government Act 2012 and Standing Order 59 and 60; whereas the Constitution of Kenya Article 181 as read together with section 33(1-10) of the County Government Act 2012 provides for the removal of the County Governor; aware that the County Governor was established under Article 6(1-2) of the Constitution of Kenya; aware that Makueni County residents elected their Governor to the office of the Executive on 27th March 2013 to execute his mandate pursuant to the Constitution and Section 30 of the County Government Act 2012; concerned that the Makueni County Governor H.E. Kivutha Kibwana has contravened the law; this Assembly hereby impeaches the Governor of Makueni County Government based on the grounds laid below:

- Abuse of office or gross misconduct, Article 181(c);
 - i. Sponsoring hooligans who threatened to rape and sodomize Members; assaulted and abused Members while in the Assembly during its session on 30th September 2013;

- ii. Failed to cause to be tabled in the Assembly the Finance Bill in time for deliberation and approval by the end of 13th September 2013, resulting in loss of revenue meant for development of Makueni County;
- iii. Failed to ensure the transfer of funds by national Government amounting to Ksh 764 million, the funds are unutilized creating fear that there would be no development of the County;
- iv. Failing to provide leadership, peace order and management accountability pursuant to 30(3a-g) of the County Government Act 2012;
- v. Failed to recognize separation of powers between the County Assembly and the Executive and insisted on budgeting for the Assembly contrary to Section 42 of the Public Finance Management Act 2012.

That is the Motion of Integrity, Mr. Speaker.

Hon. Speaker: Thank you, *(Applause)* Hon. Maseka. That is a seven days' notice also on a Motion of impeachment. Hon. Members, the for the other two Motions I would like to request the Members, because of time and the situation; and where we are and our mobility, I request the other Members Hon. Nzilili And Joseph Musya just to give a notice of Motion and then they will be discussed at another date. So, Hon. Nzilili.

Hon. Member: Point of order Mr. Speaker!

Hon. Speaker: Yes.

Hon. Member: Thank you, Mr. Speaker. The Motion by Hon. Member, Joseph Musya is of immense importance for the people of Makueni. So, Mr. Speaker, as you are aware we have a problem because there is no revenue being collected in Makueni. Therefore, Mr. Speaker, I would urge that maybe we proceed with that Motion and may be allow the Member to give notice so that we can proceed.

Hon. Speaker: Thank you. Are you all in concurrence? Point of Order?

Hon. Member: Motion number 8; Notice of this Motion was given in the last session and actually it is due for discussion today. Of course the Hon. Malinda did give a Notice of Motion in the last session.

Hon. Speaker: Clerk? --- *(Consults with the Clerk)* so, can we slot it for another day because of time; because of time and security for the Members?

Hon. Member: Obligated.

Hon. Speaker: Okay. So we slot a date for the first for Nzilili at the next sitting that the Assembly will have. Hon. Malinda

Hon. Member for Kasikeu Ward (Paul Malinda): Hon. Speaker sir, I agree simply because of the immense importance of the Motion by Hon. Joseph Musya but that notwithstanding it should still be known that a Motion I brought to this House also touches on our lives. So, the next Motion whatever the case, must be discussed. We must have to discuss this Motion, Mr. Speaker, but I would highlight that our people are crying and we might not meet the development agenda if we don't heed Hon. Musya's Motion. Thank you, Mr. Speaker.

Hon. Speaker: I think we should slot another Special Sitting next week, for that Motion only, so that we can put the Motion on line for the Special Sitting next week. I think that is okay?

Hon. Paul Malinda: Obligated.

Hon. Speaker: Mheshimiwa Musya, give Notice of Motion.

Hon. Member for Mbooni Ward (Joseph Musya): Thank you, Mr. Speaker. We have a problem with my lighting here --- (*Indicating*) given the fact that the Member giving this---

Hon. Speaker: Can you come to the window, where there is light?

Hon. Joseph Musya: Thank you, ---(*Moves to the window*), Mr. Speaker sir, **THAT** aware that the County Government of Makueni has failed to pass the Finance Act within the stipulated time; aware that the Governor of Makueni banned revenue collection in the County until a legal framework is put in place; concerned that the County substantially lost a lot of revenue in the past one month that could have gone to the development of the County in order to ensure that revenue is collected as the Finance Act proceeds to the final stage of approval I do move that this honourable Assembly to adopt the fees schedule of the defunct County Council of Makueni, Wote town Council and Mtito-Andei town Council to be used as the legal rating, fees, charges schedule for the County Government of Makueni until the time that the Finance Act would be in place. Thank you, Mr. Speaker.

(*Applause*)

Hon. Speaker: Thank you. Next order?

STATEMENTS

STATEMENT ON – MAKUENI COUNTY ADMINISTRATION BILL

Hon. Member: Thank you, Mr. Speaker, I stand to request in a form of schedules that the Hon. Members--- regarding the Makueni County Administration Bill which is now before the House the question indicates legislation seeking the opinion of all the Members regarding section 4(1b) of that Bill and section 4(1e) in each case the Delegated Legislation Committee is asking the Members to give lists of what they consider to be villages as contemplated in that Bill and what they consider to be the sub-villages as contemplated in that Bill and this will form the Schedules to the Act when it is going to be passed by this Assembly. Mr. Speaker, when this is brought to us by the Members, it will be taken to the public for the public to deliberate and know whether that is what they want to be written and Mr. Speaker, I have already given to other Members the same request for statement so that in the next sitting of this House when we come back here we can have that list so that Members can read this together with the Bill and then they provide the schedules to us. Thank you, Mr. Speaker

Hon. Speaker: Thank you. There are no more Statements. Next order?

MOTION

MOTION ON – FINANCE ACT

Hon. Speaker: Hon. Musya, Move your Motion.

Hon. Joseph Musya: Thank you, Mr. Speaker sir, **THAT** aware that the County Government of Makueni has failed to pass the Finance Act within the stipulated time---

Hon. Speaker: Order! Order, Member! Put it in the right way; I stand to move a Motion that is---

Hon. Joseph Musya: Sorry, Mr. Speaker. I stand to Move the Motion; **THAT** aware that the County Government of Makueni has failed to pass the Finance Act within the stipulated time; aware that the Governor of Makueni banned revenue collection in the County until a legal framework is put in place; concerned that the County substantially lost a lot of revenue in the past one month that could have gone to the development of the County; in order to ensure that revenue is collected

as the Finance Act proceeds to the final stage of approval I do move that this honourable Assembly to adopt the fee schedule of the defunct County Council of Makueni, Wote town Council and Mtito-Andei town Council to be used as the legal rating, fees, charges schedule for the County Government of Makueni until the time that the Finance Act would be in place.

Hon. Speaker: You are on the right track.

Hon. Joseph Musya: Mr. Speaker, the Motion is very clear and self-explanatory. We are aware that in the County when the collection of sand was banned, this County lost a lot of revenue. Going by the figures we were given by the defunct County Council whereby they were making about Ksh 5000 a day, calculating the number of months we have been here, six months, that is a lot of money this County has lost and hence the people of Makueni have lost revenue. When you look around within Makueni County in every Ward there is no development which has been done. Compared to our neighbouring sister County, Machakos; within that town you can see a lot of development going on. Even access roads are being done and this puts a lot of pressure in reference to what is happening within our Makueni County. There is nothing going on.

It is very unfortunate to quote the stalemate which is going on on budget because our people are asking us; what is going on? What is happening? I do hope my Hon. Colleagues have been making effort to explain to *Mwananchi*, I have made efforts in my Ward to explain to *wananchi* in my Ward at various functions so that they can know what is going on so that they do not just blame the elected MCAs for doing nothing. This leaves a lot to be desired. As an Assembly we need to really move fast to put impetus into the collection of revenue for various items and that is why Mr. Speaker sir, this Motion is very important to alleviate the problem facing this County. Therefore, if this honourable Assembly approves this Motion, then the Executive can immediately start collecting revenue to assist our County.

This is an important Motion whereby when Members contribute and eventually pass it, we can revitalize because as at now our county is dead in the sense of death. Nothing is going. What is going on is only lamentation from the Executive. Our Members of the Assembly want only to commend them and congratulate them for having carried themselves in a very civilized manner, in a very calm manner and no complaints even in spite of the threats of being sodomized and raped which are very serious allegations that we all witnessed. This is not a rumour. We were in the Assembly and we witnessed projectiles being thrown at the Hon. Speaker and abusive words being thrown to our Members and therefore it is a high time we moved with speed and actively. Because it is the question of management,

the Makueni management is already stuck and we need to move very fast so that it starts the revenue collection in order to develop. Mr. Speaker sir, I beg to move this Motion and allow other Hon. Members to---

Hon. Speaker: A seconder please?

Hon. Joseph Musya: I request the Hon. Kilonzo of Thange to second the Motion.

Hon. Kilonzo: Mr. Speaker I excuse him because I don't come from that area he has mentioned.

Hon. Joseph Musya: Oh! Masongaleni, sorry.

Hon. Member for Masongaleni Ward (John Kilonzo): I stand here to support this Motion on a very serious note. I want to second this Motion. It is an obvious matter that the Finance Bill is the hallmark of allowing Makueni County to go ahead and levy some revenue from the people who elected us but it is a matter to be considered *ultra vias* because this is a matter that is supposed to have taken place within go days but within two days this matter was brought to the attention of the Assembly. I think this was a trap to make sure that after passing the Finance Bill it would have been taken down to our people to be construed as if we don't care about our people. So there was a political overtone in this Finance Bill but I believe what the Hon. Members did was the right thing. There was no way we could have passed a Bill that was a trap to be a death trap for our people.

I have listened to a lot of terminologies and expletives which have been advanced that we are the ones who are supposed to emanate this Finance Bill. Still the other way it is supposed to come from the Executive. We have not been actually vocal on this matter. I believe it has been taken as if we are the ones who have come up with this Bill. It is high time that this finance Bill formed a part of our Budget because we know we were supposed to collect around 300 million to suffice for the budget we have. I believe we have to support this Motion solidly because we need that money that is supposed to come from the local revenue and I think it was not upon this County Assembly to have taken that matter because it was the option of the Governor and the Executive to make sure that we become the laughing stock in the eyes of our people.

If we pass this Motion as quickly as possible may be we will no longer be a laughing stock and I think somebody will be down trodden because we are not supporting the original Motion because it is a suicide for our people. We have opted to go back to what was in existence before the County Government came into being that is purported to be within Cap 255. So if we use that I believe this Hon House will

carry the day and I hope it is not a question of trying to push between two people but it is a question of making sure that our people get services through whatever we are going to collect from this field. Thank you, Mr. Speaker. I stand to support this Motion.

(Question was proposed)

Hon. Speaker: so, I call upon Hon. Members to contribute to the Motion. Hon. Nzioki.

Hon. Andrew Nzioki: Thank you very much, Mr. Speaker. It is indeed a perturbing issue, Mr. Speaker, bearing in mind that our County is a Semi-Arid Area (ASAL area) and we are also aware that the County Government is composed of two arms; the Executive and the Assembly and one arm of the Government being the Executive has deliberately decided to make sure that the County does not move. There is no way we can lose this opportunity because previously we have lost many opportunities. You have heard that the stoppage of sand harvesting was one man decision and as a County we have lost lots of money that we cannot afford to continue losing that money any other time.

It is very unfortunate that we have to discuss this because when we think of until the Bill is passed; it also portrays incompetence on the part of the Executive. It is unfortunate; it is unbendable and so Mr. Speaker, I am asking this Assembly to rescue this County because unless this arm of the Government rescues this County we are nose-diving and we are likely to annex into this fall all the sectors. I strongly support this Motion and I say that we should continue collecting funds to rescue some few coins because this far we have heavily lost as a County.

Again, I am perturbed that we have really wasted a lot of time focusing our minds, our intentions our discussions on an individual. It is high time I requested that we rise up and begin discharging our mandate. We focus our minds; we focus our discussions; we focus our deliberations and targets towards the development of the County but not the feelings of the Executive because that is not what our election is about. That is not the platform we were elected on. I urge this House to rise up and begin developing this County.

I am perturbed every time we begin discussing an individual. This County is more important and greater than an individual. It is greater than me. It is greater than even this House and therefore all revenue should be collected because Mr. Speaker, we are getting a lot of problems. Before I wake up in my home every day, I find people filing in my compound and they are requesting for bursaries and this and that. we are telling them there is no money in the County, there is no bursaries;

when actually we are just letting money be swindled out of the County through sand harvesting and so forth. Soon I will be tabling a Motion in this House to be allowed to sell sand in my Ward and I decide what to do with this Government directive, because--- (*Laughter*)

Hon. Speaker: Thank you. Hon. Nzwili, move your amendment.

Hon. Member for Ivingoni Ward (Cosmas Nzilili): I do propose that the words '*with immediate effect*' be put between the words '*council*' and '*to*' in the third sentence on the last paragraph of this Motion. Thank you.

Hon. Speaker: Secunder?

Hon. Cosmas Nzilili: Thank you, Mr. Speaker. I request the Chairman Finance to second me because he always likes the words '*with immediate effect*'.

Hon. Member for Makindu Ward (Bernard Musau): Thank you, Mr. Speaker, I---

Hon. Member: Point of order, Mr. Speaker!

Hon. Speaker: Order! Order!

Hon. Member: The Member who is on the floor is not with proper decorum and so he is a stranger in the House--- (*Inaudible*)

Hon. Speaker: The Hon. Musau

Hon. Bernard Musau: Yes, Mr. Speaker sir.

Hon. Speaker: A Member in this House is saying that you are a stranger in the House.

Hon. Bernard Musau: Mr. Speaker, I thought this was a very serious matter than the--- I just made sure that I did everything that I was doing so that I could be here in time and that is why I am dressed the way I am. Mr. Speaker, I beg your pardon.

Hon. Speaker: Thank you. Because of the situation, and for now, and the prevailing--- I know politics, you were in the field trying to campaign but this is the last one for you Musau. This is the last time to be seen as a stranger in this House. I think this one will be the last time.

Hon. Member for Thange Ward (Martin Masila): Mr. Speaker, I think it is true you can allow him to be in the House but for purposes of record and such that

the secondment shall never be challenged in this House I propose Hon. Kavita to second (*Laughter*)

Hon. Member for Kikumini Ward (Josiah Kavita): Thank you, Mr. Speaker sir. I stand to support the amendment moved by Hon. Nzwili.

Hon. Speaker: Thank you. Hon. Members.

(Question that the words to be inserted be inserted proposed)

(Question that the words to be inserted be inserted put and agreed to)

Hon. Speaker: So, that amendment is now included and Members can continue with debate. Hon. Masila.

Hon. Martin Masila: Thank you, Mr. Speaker sir. I stand to support the amendment '*with immediate effect*' because of the following reasons. I support '*with immediate effect*' because it will bring money fast enough and the fact that the previous rates and charges which were being levied by Wote County Council, Mtito County Council, and the County Council of Makueni were actually bringing enough money to run the operations which were there including the LATF which was being provided by the local authorities. I further support the amendment because it will make sure there is no time wasted and I still support the revenue collection to be enhanced such that those who have been given the responsibility of collecting revenue to be more serious than they have been before.

So this has to go to the administrators and the members of the County Executive in charge of Trade because that is the docket. So they have to see to it that the revenue is collected and fast enough. The other thing is that members of the public and members of the Ward who are out there trading in animals are facing a lot of challenges because such trade in animals is normally enhanced when there are receipts. People with stolen animals for now cannot be identified because before, once you bought an animal in the market place you were given a receipt and that receipt indicated the buyer, the seller, and the respective location of the seller but right now everything is in mayhem. Nobody can be identified. Nobody can tell the rightful owner of the animal. So this has to stop with immediate effect.

I therefore support that amendment '*with immediate effect*'. The other thing is that the finance Bill was erroneous because of what was indicated as the previous charges. Most of them were wrong. So if we have to go to the earlier charge of the defunct county Council it will be easier and better because everyone who was collecting already knows how much they were charging and receipts are there to show may be how much a goat was costing. It was being paid for Ksh 30 but in the

Finance Bill it is erroneously indicated that somebody selling a goat was supposed to pay Ksh 20. So, this one was wrong and so we have to go back to the words '*with immediate effect*'. The other thing is that this has to be done very fast because development has actually stopped. In Kenya when you talk about development we actually talk about--- in urban places it is buildings. Buildings have to be done on land. The land has to be registered. Right now there is no registration going on. People cannot register with the County; demarcation is also very hard and now everything has stopped. We have to put everything to an immediate start so that our County does not lag behind in development and so that we can be seen to be moving ahead. Finally, I would say the finance Bill was erroneous and was made in such a way so as to paint the Hon. Members of this House as gullible Members; as unsympathetic and uncaring to the *mwananchi*. So I support that we go back to the former charges with immediate effect and I support the amendment. Thank you very much.

Hon. Speaker: Hon. Mwenze, because of time you move your amendment so that we know whether it is going to be in the Motion or not and so that it is debated together if it is going to be there.

Hon. Member for Nguumo Ward (John Mwenze): Thank you, Mr. Speaker sir. We also thank you for saving the business on the desk of Hon. Musau, due to lack of decorum. (*Laughter*)

Hon. Martin Masila: Point of order!

The Hon. Member who is raising an amendment is also an intruder in this House! He is also not in adherence to the House decorum yet he is purporting to talk about Hon. Musau instead of going ahead to give his amendment. He is supporting you, Mr. Speaker, for allowing any person to be without decorum. Seriously, is it in order for the same Member to come and congratulate you on the floor of this House?

Hon. Speaker: Hon. Mwenze, you are indecently dressed and you are a stranger in this House and for that reason you cannot move the amendment. You have to be properly dressed.

(*Applause*)

(*Amendment on amendment dropped on account of the Member's lack of decorum*)

Hon. John Mwenze: Thank you, Mr. Speaker sir and I wonder why Martin should challenge the Speaker's ruling.

Hon. Speaker: That one was on Hon. Musau alone. But it cannot be a precedence that will now be followed. So we can continue with the Motion as it is now without amendments. Yes, Hon. Munyao.

Hon. Member for Kilili/Kalamba Ward (Francis Munyao): Thank you, Mr. Speaker. As all Members are aware we fought about the finance Bill for quite some time and I stand to support the Motion. We fought with the Executive Member for Finance for quite some time and at one point we were really serious and we wanted to impeach him. I would like to say that the County Government of Makueni is really losing a lot of money because from sand harvesting, Mr. Speaker, we experienced it when I was Finance Chairman of the defunct County Council of Makueni, we were getting more than Ksh 5000 per day from sand harvesting.

Again from the market fees and charges and other levies, we are likely to get more than one million. So, in a day we are losing more than 1.5million. I really wondered aloud when the Governor went ahead and banned sand harvesting and then the other day went ahead and banned collection of fees and charges from our markets, I really wondered aloud whether the Governor was behaving like a Chairman of a County Council because water, livestock, fisheries, health, co-operatives, land and social services are all devolved and those Ministries continue to draw what they are supposed to get from *wananchi*. I was really wondering why he was too hard on the County Councils or he was behaving like a Chairman of a County Council.

I would like to say that if we were collecting this kind of money, we would not be fighting over the deficit we are fighting over every day in the papers and everything, because the deficit we are fighting over is something like 100 million which can be very easily be bridged from the budget that we would be getting from the sand harvesting. Mr. Speaker, cumulatively I am getting that we are losing a lot of money. So, Mr. Speaker, again, if it were not for the threats that we were getting on 30th when we were passing the---

Hon. Josiah Kavita: Point of order!

Hon. Speaker: Order!

Hon. Francis Munyao: Mr. Speaker, protect me.

Hon. Josiah Kavita: Is it in order for this Member to continue alleging that the Governor is acting like the Chairmen of the defunct County Councils---

Hon. Member: Point of order, Mr. Speaker!

Hon. Speaker: Keep some order for the chairman!

(Laughter)

Hon. Josiah Kavita: As a former Chairman of this Council I have led this County without any problem and without making any roadside decisions and I think it is not in order for the Hon. Member to continue mentioning that time that was so—

Hon. Speaker: Hon. Member withdraw, because---

Hon. Francis Munyao: I will substantiate, Mr. Speaker.

Hon. Speaker: ---you are not in order to equate and say like the former Chairmen of County Councils were doing things the wrong way; I think that is not in order.

Hon. Francis Munyao: Mr. Speaker, I agree with you but I want to substantiate. This is a claim that I made on the floor of the House, Mr. Speaker and I want to say this; it is because the County Council of Makueni Chairman was in charge of fees and charges of the markets and everything. He was not in charge of water, livestock, fisheries, health and cooperatives so I am saying that the Governor is behaving like he is a chairman of a County Council, he is not aware that there are services that have been devolved in this County. So Mr. --- *(Laughter)* Speaker, I am saying if it were not for the---

Hon. Speaker: Order, Chairman!

Hon. Francis Munyao: Mr. Speaker, protect me.

Hon. Speaker: Which order has been violated?

Hon. Josiah Kavita: Mr. Speaker, I think the Member who has just been on the floor contributing is misleading this House by giving allegations that the former Chairmen would in the past stop people from collecting revenue and give them orders like the Governor is doing. Having been a chairman to the defunct council for four years I have never acted like the Governor has acted *(Loud consultations)* so, Mr. Speaker let the Member withdraw that statement because that was a honourable seat and we used to honour the positions that we had.

Hon. Francis Munyao: Mr. Speaker, I withdraw but I think I have made my point.

Hon. Speaker: No. Order in the House! You cannot withdraw and pitch it again.

Hon. Francis Munyao: Mr. Speaker, I withdraw. Thank you, Mr. Speaker. I am saying if it were not for the stones, the threats to be sodomized and raped in the House on that 30th of September I would like to say with a lot of confidence that we would have passed the Motion that we are passing today. I am therefore saying that let us move swiftly and with speed to make sure that revenue is collected as early as tomorrow so that our County can move forwards. Thank you.

Hon. Speaker: Thank you. Hon. Mwenze, now you are not a stranger in the House.

Hon. John Mwenze: Thank you, Mr. Speaker. I am moving the amendment that immediately after the words '*Mtito-Andei town Council*', we insert and I quote; '*also adopt the charges and fees that had been charged by all other devolved Ministries*' and we write the new amendment, the words; '*with immediate effect*'. I am moving this amendment because we are aware that some of these Ministries have been devolved to the County Government and we are following the charges and fees that had been charged previously by the local authorities.

It is my view that we also include the charges and fees by all the other devolved Ministries of the County Government; because for example in the County Councils there were no vehicle licenses. When you go to the Ministry of Agriculture and Fisheries, meat inspection is also being charged and they are new charges for the County Government. When you go to inspection of hotels, lodging houses, restaurants and eateries there are charges; the Culture and Social Services has also new charges; the Ministry of Tourism, Ministry of Roads and Ministry of Lands have those charges that had been paid but they were not charged by the Council of Makueni, Wote and Mtito-Andei town Councils that is why I propose the amendment and I request Hon. Martin to second me.

Hon. Martin Masila: Thank you, Mr. Speaker. I stand to support the amendment that has been moved by Hon. Mwenze.

Hon. Speaker: Thank you, Hon. Members I propose the---

Hon. Member: Point of order, Mr. Speaker!

Hon. Speaker: Not allowed. I propose the question of the amendment that has been proposed by Hon. Mwenze; that after the words '*Mtito-Andei town council*', we insert the words '*also adopt the charges and fees that had been charged by all other devolved Ministries.*' So, I propose the question that the Motion now will read, just a part, that: "In order to ensure that revenue is collected as the Finance Act proceeds to the final stage of approval, I do move that this honourable Assembly do adopt the fee schedule of the defunct County Council of Makueni, Wote town

Council and Mtito-Andei town Council; also adopt the charges and fees that had been charged by all other devolved Ministries with immediate effect to be used as the legal rating fees and charges schedule for the County Government of Makueni until the time that the Finance Act would be in place." So, I now propose it for debate on the floor of this House.

(Question of the further amendment that the words to be inserted be inserted proposed)

Hon. Speaker: Yes, Hon. Mutua

Hon. Member for Mukaa Ward (Jonathan Mutua): Thank you, Mr. Speaker sir. Mr. Speaker, I stand to oppose that amendment because on 30th we send the draft Finance Bill to the Finance Committee for public consumption and up to now we don't know the progress of that draft; it was not a Bill it was a draft. I want also to indicate that by implementing the other fees indicated in that Bill it means that now we are starting to accept that Bill on piecemeal and at the end of the day we will find that we have implemented that draft which we send to the public. So, I totally oppose that part of amendment.

Hon. Member: Point of order!

Hon. Speaker: Order, Kavita.

Hon. Josiah Kavita: I think the Member on the floor is misleading this House.

Hon. Speaker: Kithale! Yes, there is a Member on the floor. Two Members cannot be standing at the same time.

Hon. Josiah Kavita: Thank you, Mr. Speaker. I think the Member on the floor is misleading this House, simply because we are not implementing the Finance Bill. We are saying these charges and fees which were being charged from the devolved functions should continue while we are debating the finance Bill. Thank you, Mr. Speaker.

Hon. Jonathan Mutua: I am sure I am not confusing the House because the Hon. Member who is asking for that amendment and I think he is still a stranger because, I still don't understand how you can allow Hon. Members to be exchanging cloths in the House? --- *(Laughter)*

Hon. Speaker: I think it is a matter of survival *(Laughs)*. The Member and the other Member are both Hon. Members of the House--- *(Laughter)*

Hon. Jonathan Mutua: We are really looking funny on such issues. Mr. Speaker, as the Member said, there was fees and charges that we indicated in the draft Bill that came from those Ministries which did not exist before and those are the ones we want to include and collect.

Hon. Speaker: Hon. Member, if I may give guidance, the Member wants us-- - take your seat. The Member is just bringing to this floor the fact that there were some devolved functions which were not under the County Council and now they are under the County Government and also we were supposed to come up with an Act by 30th September on them. Now that we have not done so, uniformly, he is saying that the charges that used to be charged by those devolved functions, which were not under the County Councils be now used just the same way we are asking that the ones used by the Councils continue as we come up with a new Bill. That is my understanding.

Hon. Jonathan Mutua: Thank you, Mr. Speaker, for that correction. That is why I stand with what I said. Let us just implement that which was for the County Council earlier, exactly the way it was until we finish with the draft Finance Bill. Thank you, Mr. Speaker. I don't want to dwell much on the devolved functions. I know if we start digging so much on those ones that were devolved at the end of the day we will be confusing our tax payers. We have informed some people that they are about to pay some taxes and they are willing to pay taxes. It is only that there is that stalemate between us and the Executive. Also on the same---

Hon. Speaker: Hon. Member, you are trying to suggest that we only now debate this Motion that will only touch on levies that were being charged by the County Authorities only and we don't go for the others that were not under local authorities? So, those ones who were not under local authorities will continue not to be charged any charges now because there is no Bill in place?

Hon. Jonathan Mutua: Very well, Mr. Speaker, now we are on the same track--- until we pass that Bill in this House. At the same time, Mr. Speaker I will request a statement from the Vice Chairman of Finance who is in decorum to tell us the progress of that Bill.

Hon. Member: Order, Mr. Speaker!

Hon. Speaker: Order, Hon. Member!

Hon. Member: I think this House needs more training before we start using the Order Paper, because I think there was statement time. So we can't go back to that. We are dealing with the Motion. Can we continue with the Motion?

Hon. Members: Yes

Hon. Speaker: Any other Member who is debating on that amendment? Are we agreeing on the amendment?

(Question of the further amendment that the words to be inserted be inserted put and agreed to)

Hon. Member: Point of order! Thank you, Mr. Speaker. I think today you have become too lenient because a Member who is not in decorum cannot ask the Hon. House to move on. I think it is becoming serious. We need a Member who is in decorum to propose such an amendment.

Hon. Member: Mr. Speaker, since it is getting late I also want to support the Member on that---

Hon. Speaker: He has been ruled out.

(Loud consultations)

Hon. Member: Mr. Speaker I now propose that we adjourn because it is getting late and also our security is of concern, Mr. Speaker. Some of us have been threatened, that is we have received messages that are threatening so, Hon. Speaker I propose that we---

Hon. Speaker: The Hon. House is of the opinion that if there are no Members contributing we are in concurrence that one Member can contribute and then I put the question.

Hon. Members: Yes.

(Loud consultations)

Hon. Speaker: Hon. Mwau.

Hon. Member for Mtito-Andei Ward (Shadrack Mwau): Thank you, Mr. Speaker sir. First of all I would like to say that you cannot operationalize our county functions without collection of revenue. Bearing in mind whatever has been proposed by the Hon. Members I stand to support the Motion the way it was and the way it was amended. We have lost a lot of money because we are not collecting revenue and we cannot operate this County without money, so, I propose we adopt this Motion and pass it because it is acting like a temporary Act since we have not passed the Finance Bill as required by law. But we should also know the charges and fees charged by the County Councils because last year I remember very well that I took Mtito-Andei Town Council to the court because they were overcharging my

people. So, I would like to ask whether we can know the fees and charges that belong to that town Council. If we say we go by the fees and charges of the old town councils it is alright, if we say we will go with the town Council charges and fees which were set I will also say I support it fully. I believe we should start it immediately as it was put by the Hon. Member who amended the Motion. Thank you very much, Mr. Speaker.

Hon. Speaker: Thank you, Hon. Mwau. Hon. Members. --- *(Consults with the Clerk)*

Thank you Hon. Members I now see that the House is of the mood that we adopt this Motion and now I want to put the question of the adoption of the Motion on the floor of the House. I now put the question; **THAT** aware that the County Government of Makueni has failed to pass the Finance Act within the stipulated time; aware that the Governor of Makueni banned revenue collection in the County until a legal framework is put in place; concerned that the County substantially lost a lot of revenue in the past one month that could have gone to the development of the County; in order to ensure that revenue is collected as the Finance Act proceeds to the final stage of approval I do move that this honourable Assembly to adopt the fees Schedule of the defunct County Council of Makueni, Wote town Council and Mtito-Andei town Council, and also adopt the charges and fees that had been charged by all other devolved Ministries with immediate effect to be used as the legal rating fees and charges scheduled for the County Government of Makueni until the time that the Finance Act would be in place.

(Question put and agreed to)

(Applause)

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members as I said earlier this was a Special Sitting for the issues that we have gone through and Members I want to make a communication from the Chair that Members of the Assembly worldwide make decisions within the law and their decisions are final. Decisions of the Assemblies are final. The Motions that have been given as Notices here have become the documents of the Assembly and the Hon. Members who have put their signatures there according to the Standing Orders the signatures remain there and on the second day is when the Motions will now be moved by the Mover.

Issues of threats to the Members, which I am also getting and they are all over the place, as Members we are all under that one. I have communicated properly to the Inspector General in writing; to the County Commissioner in writing;

I have communicated to all the DCs (District Commissioners) in all the nine Districts about the security of the Members and they are aware of everything. So if a Member is threatened he should keep record with the police and inform the Speaker immediately so that we can take legal action. We can move Motions here which can affect anybody. You are an Honourable House; don't live under fear of what you do hear. You don't do it for yourself. We do it according to the law and the House gives you that.

The House can sit anywhere according to the law within the County so long as we have all the systems and machinery that is required in the House. We can sit anywhere and make a resolution. So, you should not fear that when I do this I am going to be subjected to this. Report to the police and the Assembly will take action and we have all the necessary machinery to take action ourselves and that is why we are even moving Motions of Security in this House. That one is allowed all over the world. So, Members should not be threatened because we are debating this in this House. I assure you that security is there. We will never compromise and we will never sit down and we will never fail to say what we want to say because somebody wants us to say what she or he wants us to say. As an Assembly we will not. This is a House of rules instituted by the Constitution and if somebody wants us not to be here let that person go and remove us from the Constitution. I think that is what we have. So, at this point now---

Hon. Member: Point of information!

Hon. Speaker: Yes.

Hon. Member for Ilima Ward (Stephen M. Mulei): Thank you for allowing me. I am standing as the Vice Chairman of Finance. Our Hon. Colleagues have been suffering financially, before we---

ADJOURNMENT

Hon. Speaker: I think that one we can do after we have adjourned the House. So, Hon. Members and procedurally, I now want to adjourn this House *sine die* knowing that we are still in session although in a *sine die* method. So I now still adjourn the House *sine die*. Thank you.

(The House rose at 4.00 p.m)