

Republic of Kenya



County Assembly of Kisumu

Debates of the Assembly

Motion:

Demolition of Temporary Structures for Construction of Proposed Bus Park at Awasi) – By Hon. Fanuel Aim – MCA, Awasi /Onjiko Ward

HANSARD EXTRACT

Tuesday 7th July, 2015

Afternoon Session

Time: 2:30 p.m.

1st Assembly

Third Session

No. 73

Tuesday, 07th July, 2015.

Afternoon Session

Time: 02:30 p.m.

Motion

Pursuant to Standing Order No. 49

(Notices of Motion to be deliberated as a matter of urgency)

- 1. Demolition of Temporary Structures for Construction of Proposed Bus Park at Awasi) – By Hon. Fanuel Aim – MCA, Awasi /Onjiko Ward.*

Mr. Speaker: I was almost dropping your motion Hon. Aim.

Hon. Fanuel Aim: Mr. Speaker, why are you very fast in dropping my motion?

Hon. Fanuel Aim: Mr. Speaker, thank you very much for according me time to bring this Motion under Standing Orders No. 49.

Mr. Speaker,

As you are aware, this motion I had earlier on brought on the floor of the House last week, Thursday. Mr. Speaker, as of now there are a lot of things transpiring, but before I tell the House whatever it is that is happening in Awasi Mr. Speaker, I would like you to allow me so that this motion can be seconded by Hon. Lydia Odhiambo. Thank you.

Mr. Speaker: Order! You have not moved your motion and Hon. Lydia Odhiambo will only come in to second what you have moved.

Chief Whip (Hon. Isaya Onyango): Point of Order Mr. Speaker?

Mr. Speaker: Yes Hon. Isaya Onyango.

Chief Whip (Hon. Isaya Onyango): Mr. Speaker, we discussed this motion last week, and there was a directive that was given by the Chair. So, I thought that we were to take that direction which you had made earlier on, then it's from there that we pick it. I want to believe that there was a document which you said that and I thought Hon. Aim was going to come up with the issues that were raised, that is why we did not discuss this motion on the said date.

Mr. Speaker: Hon. Aim.

Hon. Fanuel Aim: Thank you Mr. Speaker. Mr. Speaker, the documents that they are talking about is with Madam Speaker. Mr. Speaker, I brought the structural plan of this amenity that is proposed to be built at Awasi and I also brought the temporary letter that was issued to the traders who had built temporary structures in that market place. Mr. Speaker, Madam Speaker is still scrutinizing the document plus the Executive and I even took one copy to H.E. the Governor and I think that I have done the necessary and because of the urgency of the matter, I should be allowed to move this motion Mr. Speaker, because, if I don't move this motion and what is happening there continue to happen, then I want to wash my hands Mr. Speaker.

Mr. Speaker: Hon. Gabriel, what information do you have?

Hon. Gabriel Ochieng': Mr. Speaker, Hon. Aim is a very good friend and I can feel his shoes at this moment. Mr. Speaker, Hon. Aim is stating that this matter is serious and there are many things happening in Awasi. The seriousness of that matter will come to light when he tables those documents, then it is when the Assembly will take the necessary action so that we can help curb the situation that is happening in Awasi. Otherwise, if we say that Madam Speaker is still studying the document, these documents ought to have been tabled as Papers in this House so that it can be circulated to all members so that it can help Hon. Aim come out of this mess Mr. Speaker, that is the only way to help him, but just discussing this matter and yet we have not yet visited that site in question, Mr. Speaker, it is going to put us in a catch twenty two situation Mr. Speaker.

Mr. Speaker, this is a Hon. House, we need to send a team to that site after deliberations on this matter accompanied with the document, so that, we come up with a good report so that we help the people of Awasi, thank you.

Mr. Speaker: Hon. Ogosi.

Hon. Aggrey Ogosi: Thank you Mr. Speaker. Mr. Speaker, last week when Hon. Aim tabled this motion, I supported the Motion and Mr. Speaker, the motion ought to have been debated on that date and as it was the best practice. Mr. Speaker, it is not fair for what this Hon. House is doing to Hon. Aim because we are supposed to treat all members equally. Why is it that when it is Hon. Aim we are looking for document?

Chair, it is not the work of Hon. Aim to go around looking for documents or contracts signed by investment partners, that is not his work.

Mr. Speaker, the work of a Hon. Member is to come here and present a motion, because I also have a piece of paper that is limited to the number of projects and that is one sheet of paper that you only bring before the House then the Committee which is this House is supposed to discuss this issue and then they refer this matter to a Committee and that Committee is the one that is discharged with the mandate of looking for the papers that we are requesting for. Mr. Speaker, my opinion was and still is that this matter is to be debated and dispensed with and then the relevant Committee is the one to come up with a report and the documents that we are asking Hon. Aim to come up with, thank you Mr. Speaker.

Mr. Speaker: Hon. Charles Aguko.

Hon. Charles Aguko: Thank you Mr. Speaker. Mr. Speaker, here is a situation where a Hon. Member of this House is saying that a bad situation is in his Ward. Mr. Speaker, I got a phone call from that same marketplace where my own sister is a “mitumba” trader. Mr. Speaker, the market is burnt down Mr. Speaker as we are speaking and therefore this is a serious matter which this Hon. House needs to address. We had the Hon. Member’s statement last week and this raised concerns Mr. Speaker, why can’t we deliberate on it and then appoint a Committee to visit the site and assess the situation on the ground and bring us a report so that we take the necessary remedial action. We should sympathize with the Member because this is his Ward and his people and they are suffering because we realized that their Houses are there whom their properties were burnt and they are also now complaining. Mr. Speaker, the project is available in the ward to the tune of Kshs 250 million as the member has stated. Therefore, we have to compare notes and see on how we can rescue the situation, thank you Mr. Speaker.

Mr. Speaker: Hon. Odhiambo.

Hon. Lydia Odhiambo: Thank you Mr. Speaker. Mr. Speaker, I want to say the following. The other week Hon. Aim brought a motion before this House, I was the seconder and indeed he raised key issues that needed to be dealt with at that particular time before what transpired today occurred.

Mr. Speaker, I want to agree with Hon. Ogesi that all of us have been in this House for that last two years, we have seen how motions have been brought to this House, and

some have not even been brought procedurally and at the end of it all it was agreed that the matter be discussed before the House. Mr. Speaker, just to remind all of us about two weeks ago Hon. James Were brought out some issues regarding his Ward on some structures. Nobody complained, and it was deliberated upon, there are incidents where we have cattle rustling even in Nyakach and a motion has been moved on the same Standing Orders that were raised by Hon. Aim and nobody raised a finger. I tend to think that there is something fishy on Hon. Aim's case and it may be political and I would like to request that we should stop politicking and address the issues at hand, thank you.

Mr. Speaker: Yes Hon. Isaya Onyango.

Chief Whip (Hon. Isaya Onyango): Mr. Speaker, I want to say this, members are talking as if there is somebody who is standing on the way of this motion. I want to say this, all these things they are saying, they said they last time and the Chair made a decision, this is a matter that the Chair had made a decision and he stated clearly that you bring ABCD, very simple and clear and if the Hon. Speaker is still studying them, how can we discuss something that the Hon. Speaker is still looking into? I want to say that I will never discuss an illegality. Why I am saying that we are moving towards an illegality is because Hon. Aim has played his part because he has brought the papers that were requested by the House, he has deposited them to the Speaker, the Speaker ought to have handed them over so that we discuss them because that is the procedure, but the Speaker is still studying them, how do we discuss them? This is very simple.

Mr. Speaker: Hon. Liaison Chairman.

Hon. John Kadede (Chairman, Liaison Committee): Thank you Mr. Speaker. Mr. Speaker, I don't think we are investigators, we are policy makers. We have nothing to talk about the papers, what we are talking about is what is transpiring now at Awasi, and let us not jive ourselves. We saw in this House that there was interest, this interest is what is now causing problems where people are destroying other people's properties.

Mr. Speaker, what do you want to study from these documents? Are you an architect are you a surveyor, what do you want with these documents? What we need to do as Committee members and lawmakers is to look at this problem being raised in Awasi, this is where people have refused to give way to a project to the tune of Kshs 250 million. Mr. Speaker, the confusion is that let those people who have refused to be moved be moved, we don't need to copies to move these people. Mr. Speaker, if I was

the one in control I would have taken the bulldozers at night and cleared the way for the commencement of the project, thank you Mr. Speaker.

Mr. Speaker: Order!! Order!!

Mr. Speaker: Yes Majority Leader.

Madam Leader of Majority (Hon. Marlin Akinyi): Thank you Mr. Speaker. Mr. Speaker, I want to take sides with Hon. Aim on what happened today in the morning but I am shocked by the statement of our Liaison Chairman who has just said that people burnt some people's properties. I thought that it was an accident, but given on what he has just said it is like had some information which may help us get to the truth of the matter.

Hon. John Kadede (Chairman, Liaison Committee): Point of order Mr. Speaker?

Mr. Speaker: Order!! Order!! Hon. Kadede.

Madam Leader of Majority (Hon. Marlin Akinyi): Mr. Speaker, if the Liaison Chairman may be having some information, please let him tell us on what is happening in Awasi, but because I am coming from that constituency, the place that was affected I was a former Councillor of Nyando County Council and I was told that it was an accident. Hon. Kadede please guide the House.

Mr. Speaker: Order!! Order!! Hon. Kadede you don't need to answer.

Mr. Speaker: Why don't we give Hon. Bob Ndolo.

Hon. Bob Ndolo: Thank you Mr. Speaker. Mr. Speaker, I can recall sometime last year when we had the Planning Committee with the former Minister Eng. Kodera. He raised the same issues that the SBI are willing to put up a structure in Awasi, but they were having issues with the locals.

Mr. Speaker, what you need to do is to allow the motion, we deliberate on it, then you pass it over to a Committee, it is that Committee that will investigate, because we don't need to block this motion because the project that is at stake, I had the privilege to have an engineer who kept on telling me that what is wrong with this County, they want this project shelved. So, Mr. Speaker, we will just have to allow this, thank you.

Mr. Speaker: Order!! Order!! I can see a very senior Member standing, Hon. Auko then Hon. Misachi.

Leader of Minority (Hon. Joshua Auko): Thank you Mr. Speaker. Mr. Speaker, I think it should not go into the Hansard that once a Minority Leader always a Minority Leader as was stated by Hon. Ndolo. Mr. Speaker, the case of Hon. Aim is actually an emergency, and Mr. Speaker, an emergency must always be treated with the urgency that it deserves. Mr. Speaker, for us to come in and display that we are really concerned about our Hon. Members plight we should allow the debate on this motion to go on.

Mr. Speaker: Hon. Misachi.

Hon. Priscah Misachi: Thank you Mr. Speaker. Mr. Speaker, I have had the privilege to pass through Awasi. Mr. Speaker, when there is a development, which is planned the TOL always gives room for the proposed construction to be undertaken. I want to invite my friends who are coming from this other side of Otonglo, you will find that Beirut Hotel is not there, you will find other properties are not there. I want to take you away from this County and take you to Nairobi County, let us take Thika Road where we saw private buildings and supermarkets being brought down as a result of planning. Mr. Speaker, planning is very difficult, planning is a hard decision, it's hard to do and hard to demonstrate.

Mr. Speaker, as a House we cannot run away from our responsibilities. The TOLs were given by Committees from the defunct local authorities and at the County level there have never been such ventures. If the County is benefitting and they had acquired that land, you go and see what has happened in Otonglo and then you will come back and call those shanties developments. Mr. Speaker, I want to say that, let us discuss this motion and come up with resolutions on it and inform members of the public that if you know that a TOL was issued to you at one time, be assured that development will take over and you will not be there. So, let them start looking for a place, because look at the traders who were at Oile Market, they were on TOLs, were they not people, let them give way for development. Traders who built shops of millions of shillings in Otonglo, where are those shops, that is Beirut, even Picanini, where are they? They gave way to development, it was not planning but now it is planning. Mr. Speaker, recently we passed the ISUD Plan, I told you that these are hard decisions to be taken that is by taking those hard decisions and leader have to lead by example.

Mr. Speaker, if I gave my cousin a TOL and I find that he was moved away, I should not be bitter, I just say yes because it is time for development so let us be honourable members, because you could hear over the radio yesterday that some people are ready

to die, we don't want people to die because of development of these roads which will help our own people, let development be accorded chance and the Hon. Member of that area be seen to be walking together with the government of the day.

Hon. Speaker, I want to persuade you that these Motions that are brought while invoking Standing Orders No. 49, if I were anybody in this Assembly, I would say no to those motions, because if they are being done selectively, some are brought in a piece of paper and you say yes because there is interest, but where there is no interests, you feel that you don't agree with it. This is a very serious issue, some businesses were burnt down, we don't know whether this was an accident or intentional. So, Mr. Speaker, we cannot say that we cannot discuss this motion while it is in the floor of the House, we must deliberate on it and make a conclusive decision on it.

Mr. Speaker: Hon. Members Order!! I know what Hon. Nereah is about to say.

Hon. Nereah Okombo: Mr. Speaker, I want to give more information to the House. A similar circumstance prevailed sometimes last year in Ombeyi ward, Mr. Speaker; it was brought under Standing Orders No. 49, it was discussed, it was delegated to the Committee of Justice and Legal Affairs and Committee on the Administration of Security. Mr. Speaker, we visited the site in question did our investigations. Mr. Speaker, instead of throwing out the motion, we can discuss it and committee it to a Committee of the House to complete their work.

Mr. Speaker: The last remarks from Hon. Caroline.

Hon. Caroline Owen: Thank you Chair, what I wanted to say is the issue on Awasi is not Hon. Aim's problem, this is a County problem. When we are disc using this issues we must attach it to ourselves and own the problem as if it will happen to any other person any other time. Mr. Speaker, Hon. Aim is a member of this House and member with a calibre and I know a time comes when you cannot take things lightly. Mr. Speaker, it is better that we discuss this thing exhaustively and put things correctly that TOLs is something temporary, it means Temporary Occupation License.

Mr. Speaker, it is not something that you can take and make a brick on and it is an allocation order that can be revoked anytime and can be renewed yearly. Mr. speaker, let us discuss this because if today it is Awasi, tomorrow it will be another place and this House will have to take these hard decisions, thank you.

Mr. Speaker: Hon. Members sober up.

Mr. Speaker: Hon. Olum.

Hon. John Olum: Mr. Speaker I want to advise the Member that he should be very much sober because the people who are affected are the people of this County. As you have heard some people went and burnt those houses and property worth millions of shillings were lost. This is the reason why I want to say that the matter has now gone to court and this House should not discuss a matter which is in court.

Mr. Speaker (Hon. Elijah Omondi): Order Hon. Olum! If you have the court order please hand it over.

Hon. Petronilla Omondi: Thank you Mr. Speaker, my humble request is that we talked last week and now we are talking again but unfortunately we have not heard from Hon. Aim. If we have a meeting we must have an agenda and Hon. Aim must tell us what we are discussing but it has not come out yet. Sincerely speaking what are we addressing? So, I am requesting that you allow Hon. Aim to let us know what the problem is and where he wants us to help him because it has not come out clearly.

Mr. Speaker (Hon. Elijah Omondi): Hon. Members, I know the chair has been accused. First of all I want to declare that I don't have an interest in this case. The motion has come up again under the same Standing order. Remember on that day Hon. Paul Okiri stood up and said that two motions of the same nature cannot be brought under the same Standing order. Today again Hon. Aim since he did not trust me thinking that I had interest in the case begged Madam Speaker to slot it and Madam Speaker cleared the same Motion to be discussed in this House. Hon. Members, one thing we must agree on is that this House must intervene. We cannot allow the people of Awasi to fight as if we do not have an independent institution which can bring harmony and peace in the society then we shall have failed as an Assembly. The reason why I am saying this is because they burnt some houses and I don't know what is going to happen now but we have to intervene today.

On that basis Hon. Members, I want to allow this House to move procedurally into taking any necessary action on the ongoing at Awasi. With that Hon. Members, I want to allow Hon. Aim to move the Motion. With due respect I don't want to demand apology from you but I have cleared my position that I have no interest in the case. Thank you.

Hon. Fanuel Aim: Thank you Mr. Speaker for declaring your position before I table this Motion. Mr. Speaker, aware that the ongoing KENHA World bank funded infrastructure development along the country's main high ways came up with development of roads which were meant to spur economic growth. One of the beneficiaries of the project is the Mau Summit - Maasai highway. Another one was Awasi and Nyamasaria whereby amenities to be constructed at Awasi included a Trailer park, a Bus Park, a modern market which was to support 24 hour economy and an information center police post totaling to about 250 million.

One of the conditions set by the World Bank was availability of land by the county government. Mr. Speaker to this effect the county government had identified the necessary land for the project at Awasi but it is sad indeed that the contractor, the SBI international has been following on the release of the land for over one year in vain. We have now been given a final 2 weeks in which to surrender this land or forfeit the 250 million worth of development.

This Awasi is in my ward called Awasi Onjiko ward and somebody from somewhere wants to take control. It is sad Mr. Speaker. The time has come when this House must compel the executive to hand over the said land to the contractors without any in occupants or the House declares the executive as anti development of the county. The local authority that is Nyando county council at the time allocated part of the market which constructed some shops. Most of the traders have demolished their shops to pave way for the construction while a few have refused to demolish their shops despite several notices given to them on the same. As you are all aware, temporary allotment letters are at the pleasure of the county government and these traders cannot come on the way of the project of this magnitude. Mr. Speaker the executive must now move with speed to avail the said market so that the intended construction can commence with immediate effect before the deadline elapse.

Mr. Speaker, I am now standing before this Hon. House I can remember very well that on Thursday last week I stood up in this Hon. House to bring this Motion under Standing Order number 49. As we are all aware that when a Member stands to bring a Motion under Standing order number 49, there must be something happening somewhere and that something must be serious. Mr. Speaker, because you did not heed my request, you turned down this Motion and for that things have really happened. Mr. Speaker, the people of Awasi were yearning for this development. The County of Kisumu has not been doing much in terms of development of this County and we were very lucky to be

avored by such a big development project. Not everybody got this project but we were lucky to get it in Awasi.

Mr. Speaker I want to say here without fear or favour that the temporary structures that we were talking about are not ordinary temporary structures because the ordinary temporary structures have been removed. I keep on wondering why the four structures out of the sixteen cannot be removed. I have been all along been cooling the tempers of the people of Awasi not to react in a negative way but this time things went out of control because of the short notice we were given as the time was running out. Mr. Speaker I want to leave it now to the pleasure of this House to decide because these are the Members that should decide the destiny of Kisumu County, not only Awasi Onjiko ward but the entire Kisumu County and whatever is happening in Awasi Onjiko is happening in Kisumu County. We should not only look it as Awasi Onjiko but in a different way.

Awasi is in Kisumu and all these things are in the public domain that the people of Awasi woke up in the Morning and burnt the said structures. It was not an individual; it was the people of Awasi. I can call it mob justice, which reacted out of anger. Mr. Speaker, it is sad because now some people have started to involve me in this thing. Mr. Speaker I am a Honourable Member who cannot go and burn somebody's property and there was no property because most of these temporary structures which they call shops people had removed their goods from these shops. They were very much aware that the people of Awasi were going to demolish those shops anytime. So, nobody can come here to cheat the Members things were in those shops. Mr. Speaker, that's why I want you to appoint a committee to go and witness what happened on the ground. People would like to fix me and my people but I said it yesterday and I can repeat it now that Aim is not a coward. I am... (interrupted)

Mr. Speaker (Hon. Elijah Omondi): Point of Order granted.

Hon. Caroline Owen: Point of order! Mr. Speaker the Member for Awasi is getting emotional and what he is saying he is beginning to lose us, because this matter has been reported to this House and there are allegations which we do not understand. I would him to give us the real situation in simple terms so that we absorb and discuss.

Hon. Bob Ndolo: Mr. Speaker it seems the Hon. Member is already replying he needs a seconder so that we can debate.

Mr. Speaker (Hon. Elijah Omondi): I want to agree with you Members. Hon. Aim you have your Motion which is very clear what you are asking these Hon. House to do is clearly there and as the two hon. Members have said you have now started losing them. We only have your Motion before us and may you request a seconder so that it is seconded then discussed by the House.

Hon. Fanuel Aim: Thank you Mr. Speaker, I don't agree I was emotional I was just stretching on my point but I am going to ask hon. Lydia Odhiambo to second.

Hon. Lydia Odhiambo: Thank you Mr. Speaker, I want to say that devolution was a good thing and was intended to better the lives of the citizens of the particular Counties. One of the issues the devolution was to raise was development. I know we are grappling with issues of revenue, issues of finance and in an event where we get a donor to fund our development projects we finally win. I want to believe that development should supersede interest and for that reason I second.

Mr. Speaker (Hon. Elijah Omondi): Hon. Members a motion has been moved by the Member for Awasi Onjiko ward under Standing Order number 49. I now want to pose a question so that Members debate on this.

Chief Whip (Hon. Isaya Onyango): Thank you Mr. Speaker, I have heard what hon. Aim has said and it's true that the identified project has got time limit. I want it to be very clear that as Members of this House we have our limits on the issues of law and force that we can use. Mr. Speaker the reason why this House was in need of some documents was one; we wanted the TOL. This would assure this House that these people were squatters and were given temporary land occupation. That would mean that any time that the council or whoever gave that TOL has something to do on that land then they vacate the land. Secondly, we wanted a notice that if anybody has gone against the notice that was given then we say that we urge the county to use some force. We also wanted to see the map because some of them will say that this area is not covered or was from here to the other end. I am happy I have heard that the Speaker is still studying it. What I want to suggest is that; one, they are mixing issues because the issue of burning shops was not there but today it is a new incidence which I believe they have reported to the police. I know there is a Chief Officer who deals with such issues in the country. If it's something that deals with rates or roads or planning, we have Chief Officers who deals with such issues.

I would want to say that this House has powers to summon such Officers maybe to explain the measures they have taken because we are going to miss out on this project. What have they done because I believe these matters cannot just come from Awasi to the House. They must go somewhere and maybe somebody has failed to do what he/she is supposed to do and that's why this matter has found its way in this House. So, we want to know what this Member is doing. Secondly, we want to know what measures the security has taken on the issues of those who have lost their property. Hon. Aim is saying that those shops were empty but I want to believe that those are his own words be it empty or not and I wonder how he knew that these premises were empty. I want to say this; whether they were empty or not we need a full briefing maybe from our committee of security to make sure that they brief the House accordingly on such issues which have happened in Awasi.

I want to say that Hon. Members cannot stand on the way of development. Mr. Speaker when we were discussing the issues of KUP we said that we don't want to politicize development. As things stands now I want to say that I don't want to get myself into politics in development of the Awasi. If we have a modern market I believe that market will serve all the residents of Kisumu County. I cannot stand on the way of this development but I must say that we must also follow the law and do everything accordingly. Let's call the officer in charge of security, the officer in charge of trade to brief the committee maybe after the resolutions of what we will debate and directed by the particular committee. Let's get the statistics because at this level I don't want to blame Hon. Aim or any other person. I know that after thorough investigation this House is going to get to the bottom of this matter and if they are inciters, the House is going to know because I believe those who will be in that committee are competent people. If it is a matter that somebody incited those people to destroy property then we will know. If somebody told those people not to move out as others were moving out then we will also know.

Therefore Mr. Speaker I want to say that we give this matter to a particular committee that will go through all these things and get to the bottom of this matter. Thank you.

Hon. Maina Koko: Thank you Mr. Speaker, what is happening in Awasi is happening everywhere along the roads. If you are from a ward where a road passes the same problem occurs. When you come to Katito the same demolitions are taking place. The same problem is also there, what I wonder about Mr. Speaker is why the authority did not protect the traders because the structures were permanent; they were not temporary

as you said. I understand that there is something called TOL (Temporary Occupation Licenses) but these structures are not temporary but they are permanent. If they were given these plots on temporary basis why were they left to build permanent structures? This is a World Bank funded project and I know one of the policies of the world bank is not to make people poor and I am sure if this matter is reported to some offices of the world bank that where somebody has been earning a living from is being destroyed simply because they want to put up a market, road and bus park ...

Hon. John Kadede: Point of information!

Hon. Elijah Omondi: Granted.

Hon. John Kadede: I want to inform the Hon. Member that the structures that were being removed along Kisumu Busia Road were also permanent structures, the Nakumatt building which was destroyed in Kasarani was very more permanent as compared to these ones of Awasi, so if you are in the line of the development it doesn't know what you have .

Hon. Maina Koko: Thank you my colleague I understand better what the meaning of the permanent is, but these people have gone full length to put up these structures, they have used a lot money, sometimes they have used their whole life savings. So, it is prudent that the authority which is asking people to remove their structures, must understand the people, they should also understand that these people have used their whole life savings to put up these structures. If that one is done then these people should be compensated because they were given the allotments, they were not stopped from constructing these permanent structures, I support this development but it must be done with human face, there should be a program for compensation so that these people can proceed with their lives well, it is really sad. I know you are talking as people who have not built anything. What you are earning a living from, what you depend on is being brought down because of development, it would be better if the authority treat these people as human beings and again those people who have refused to bring down their structures, there are some who did not know that they were building on a wrong place. If there was somebody who knew because the authority should have informed them, so that they should have known where they put up structures is for temporary.

It is my understanding that there is need for this County and the authority of this House to advice and development must take place but there should be compensation. Let the demolition go on but there should be compensations, thank you Mr. Speaker.

Mr. Speaker (Hon. Elijah Omondi): Hon. Oyoo.

Hon. Pamela Oyoo: Thank you Mr. Speaker, I think we need to get sufficient information pertaining to this project because the other time Mr. Speaker you ruled that we should get the documents first, we need to know the terms of reference, how these people were allocated these plots so that we can talk from informed opinion, I don't think we will give the verdict on something we don't know the background, we want to know whether these people were given these plots on temporary basis and whether the licenses they were given are valid so that this house can discuss this matter. Can we be given the documents so that we discuss what we know?

Mr. Speaker (Hon. Elijah Omondi): Hon. Diang'a.

Hon. James Diang'a: Thank you very much Mr. Speaker, it looks like this issue is so urgent, we as a House should take great concern on this issue. My brother Hon. Aim has brought a very important Motion. It is like there are some people behind these people who have refused to give way for development. It was so good the local took it on their own hands and burnt and destroyed these structures which were blocking development, so we as a House we need to get ways on how we can help this situation.

Yesterday you heard it on your radios the way Hon. Aim was talking and there was somebody who also said that there should be compensation, we cannot lose a project worth 250 Million Kenyan shillings that way.

Hon. Lydia Odhiambo: Point of information!

Hon. Lydia Odhiambo: Thank you very much Mr. Speaker, I wish to inform my fellow Hon. Member that in this House we should not be inciting the electorates, I therefore want to say that we should be peace preachers and law obedient instead of inciting them so that they can destroy people's property.

Mr. Speaker (Hon. Elijah Omondi): Otiende.

Hon. Joseph Otiende: Thank you very much Mr. Speaker, through this discussion and we as the Hon. Members we need to speak the truth, because we were told that there were some documents and those documents Hon. Aim gave them to Madam Speaker and as we speak right now the speaker is still studying them. Mr. Speaker we should not take this matter very lightly because the other day Hon. Aim brought this matter understanding Order number 49 (j). Mr. Speaker anything to do with temporary

occupation licenses, yesterday you heard that the houses were being burnt. Mr. Speaker, if we are not careful as a House, by tomorrow do you know the report that will come out? Maybe it will be a death report!

(Hon. Members: Amused!)

Hon. Joseph Otiende: Yah, death report, people are going to kill each other, Mr. Speaker, to make this matter to be easier let us with immediate effect form a team, so that this formed team will move to this place very fast and then report back to this Assembly. The way Hon. Members are talking it is like there is a tag of war between two teams and I want to support Hon. Aim because he is the MCA of that area. Mr. Speaker, right now even as we discuss this in the Assembly we must be very sober, the reason why I am saying that Mr. Speaker, right now the way we have heard the sentiments of Hon. Aim some people have started to threaten his life Mr. Speaker, we as the Hon. Members we are not going to accept this because all of us are Hon. Members and I want to tell Hon. Aim to be very patience and then be very careful with what is coming out of his mouth, I am saying that because right now we are going to support you, to those people who have refused to remove their temporary occupation structures Mr. Speaker, why can we sit down with them so that we can sweet talk them, we as the Kisumu County residents we are not going to allow the project of 250 million Kenyan Shillings to go away. Lastly Mr. Speaker, me as the Hon. Onyango, who is representing Kisumu South West Ward, right now we must sit down with our people so that we can come out with proper resolution of helping our people, thank you Mr. Speaker.

Mr. Speaker (Hon. Elijah Omondi): Hon. Osano.

Hon. Joseph Osano: Thank you Mr. Speaker, Mr. Speaker allow me to support this motion but let us be honest here Mr. Speaker, the problem is not at Awasi but it is in Kisumu County at large, Mr. Speaker, there is a big problem in Kisumu County, Awasi is a small problem which is uniting the big problem of Kisumu County, I want to take this House back, I have heard in this House one year down the line that a Hon. Member has been asking for something that is Hon. Aloo has been asking for allotments .

Mr. Speaker Hon. Maina has asked a very good question that how come these people were doing these temporary structures and others were doing permanent structures, for people to do a permanent structure it means they had the necessary documents, while the sixteen did temporary structures how comes the four did the permanent structures, what informed them do so? Mr. Speaker, development and plans go hand in hand.

County Assembly of Kisumu

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HANSARD

Mr. Speaker, if you go to an estate called Nubian in Kisumu, if you look at the original plan of this estate you will notice it should have shopping place, if you go there today, the place which was designated for shops they have put up very big buildings. Mr. Speaker, so it is high time we speak the truth in this House. Mr. Speaker, as I talk to you as a Hon. Member of Chemelil ward the same happened to Chemelil ward last year Mr. Speaker where all the buildings were demolished, the affected people says the council gave them the permission. Mr. Speaker if you go to Milimani estate, this is a place that should be for residential houses but hotels are mushrooming there.

Hon. Lydia Odhiambo: Point of information!

Mr. Speaker (Hon. Elijah Omondi): Granted.

Hon. Lydia Odhiambo: Thank you Mr. Speaker, I wish to inform the Hon. Member that not all of us worked in the defunct Municipal Council and he has continually said let us not cheat each other, so I wish to request him to tell us the truth so that we don't cheat each other, thank you .

Hon. Joseph Osano: Mr. Speaker, allow me to say this, it is in this House that we sat here talking about a park (Taifa park for example) we talked about it here we even gave the mandate to the committee of planning so that they bring us a report, what I am trying to say is this that we cannot make laws only for Awasi and Chemelil. Let us speak the truth. This matter is a time bomb, yesterday you saw it on newspapers that Kisumu County is leading with Land grabbing and that is the truth, so Awasi case is just one, there are many cases which are coming but as an Assembly we need to do something, we need to know what to build in certain areas, we need to advice these people who are paying rates. I believe that even in Awasi the people whose structures were demolished maybe they were paying rates, so it is high time to tell our people the truth so that we do what is going to help this County.

Mr. Speaker (Hon. Elijah Omondi): Hon. Kadede.

Hon. John Kadede: Thank you Mr. Speaker, since we passed our budget for F/Y 2013/2014 we have not done even a single development and because of that we carried Kshs.1.3b to the next F/Y. Hon. Colleagues I think that this is a serious issue and when we talked of property being demolished and this is very straight forward issue that if you have built on legally acquired land and somebody comes and demolish it you go to court and you might be compensated simple and clear but if you have been given a TOL

(Temporal Occupation License) and you have decided because you have excess money to put permanent structures, legally means you must have done the drawings and took it to the council for approval and gave you a go ahead to construct permanent structures .

I have an experience that if I take you through I will consume a lot of time but if the building in Taifa park was put there legally and you go ahead and demolish it the only thing they will do is to go to court for compensation.

Also in Nyamasaria , I saw how the storied buildings were being brought down because they built on the road reserves, nobody will compensate you if it was you who went ahead and built on the road reserves. I fail to understand why we still ask people to bring documents while we know they have built on road reserves. Those who removed theirs did they remove without notice? This is pure common sense, the other time we were talking about Oile Market, how did we handle it, somebody with more information said let us struggle, what happened next morning is that Oile Market was very clear and the issue was settled and we are now at peace; even the traders themselves rushed back to the Jubilee Market and they are working there peacefully, Mr. Speaker, this is not any scientific matter and it is happening everywhere and if we in the Kisumu County do not want to make good use of these facilities, even if it was the structure like this Assembly and it is in the way of Kshs. 250M it would be removed.

I think we are joking; the development at Awasi is also the development of the Kisumu County. Hon. Pamela Omino will tell us, one day she woke up in the morning found out that the entire market place in her ward was down. Simple thing if the constructions were with the legal background then they will go to court but if they just woke up one day and put them and now the development has come they have to give way and it is happening everywhere as from Mombasa to Busia. The Sub-Committee should be formed and that sub-committee should at least within three days bring us a full report before the end of two weeks because you refused this motion to be discussed at that time. Mr. Speaker, I will be the saddest person that we might lose Kshs.250M project in Awasi after missing the other one in Nyalenda. This is one issue that we should even seek direction from H.E the Governor, Madam city manager here through her own wisdom realized that we were wasting time and she cleared Oile Market. We only need one bulldozer for such demolition, Thank you Mr. Speaker.

Hon. Benta Ndeda: Thank you Mr. Speaker, you realize that the issue we are discussing here is a very urgent matter, I pity the people whose property were burnt at Awasi area,

I want to say that a County like Kisumu loosing on a project of Kshs 250 Million for development and raising the face lift of Kisumu County is also a very serious thing and we cannot allow few people to derail the development of this County.

We are all aware that demolition is in line with section 49 of the Rome statute of 2007. So, it is not a big deal because it has been done for a very long time. I want to specify section 49(5) and it says that any person who a notice has been issued and fails to remove the structure within the specific period that would have been given then the structure will be demolished Mr. Speaker.

Mr. Speaker, I think the relevant body that is responsible for the development of the structures at Awasi is the one that has brought all this Mess to us, I think there is no need in discussing this Motion what we are discussing. It is something that is obvious and I think the people who have built on the space that they ought not to have built on should be removed on that piece of land and the development to take place immediately.

Hon. Paul Achayo: Thank you Mr. Speaker, I want to be so brief on this matter. I want to say that anyone who has encroached on private land or road reserve is the person who does not want development of this County. This County cannot lose a project because we have powerful individuals that have grabbed pieces of Land and do not want to let them go so that the Government can develop these areas.

I want to support this Motion and to say that those Money that total to Kshs 250 Million should not be lost and these people should be vacated and the houses that are on the road reserve should be removed as soon as yesterday, thank you Mr. Speaker.

Hon. Bob Ndolo: Thank you Mr. Speaker, I also want to support the Motion, I think there are some information that would have been provided to us before we started the Motion, we are talking of some temporary structures and you find out that some of the structures within that line were permanent, it is information that you should provide us with. I think the former County Council of Nyando should tell us what is going on, they knew about these structures and they need to explain to us if these structures were licensed to be temporary structures of permanent structures, these are information that we need to be furnished with, I think when we will be handing this matter to the planning Committee, I want also the Security Committee to be part of the Committee that would discuss the matter because for the Committee to go there to do some investigation they will need some security, thank you Mr. Speaker.

Hon. Marlin Akinyi (Ag. Majority Leader): Mr. Speaker I want to say that the motion that we are discussing is very weighty, one; it involves Kshs 250 Million and on the other hand it involves houses and properties being burned, so I want to suggest that we form a Committee very fast to look into this matter.

Those shops that were burnt were not on road reserve, they were on the Bus Park, and they were in Awasi and all of us know that Awasi is a market in a boundary between two constituencies, which is Muhoroni and Nyando. They all share this market between those from Muhoroni and Nyando, it is a market that is being shared so I think a committee should be formed to investigate the matter as fast as possible and come up with recommendations to the House as soon as possible. Thank you.

Hon. Aggrey Ogosi: Thank you Mr. Speaker, I also rise to support this Motion. I want to say that this motion ought to have been debated the day it appeared in the House by Hon. Aim for the first time before this House. I said it and I want to repeat, I found it very subjective to ask the Hon. Member to go and look for documents.

Mr. Speaker at this particular time we are talking about forming a committee which I know will seek for those documents, I wonder how Hon. Aim Would get those documents without the backing of the Assembly.

Mr. Speaker, I want to say that this is a very important Motion in which the County Government of Kisumu is about to lose about Kshs 250 Million worth of development in our County. Mr. Speaker the amount that we have noted is equivalent to the amount that we have given to the Ward Development Fund which is about Kshs 280 Million which is meant to cover the 35 Wards. Mr. Speaker the Kshs 250 Million is a very significant figure that will bring a lot of development to Kisumu County. I want to say that this matter ought to be treated with the seriousness it deserves, I want to support that a Committee be put in place, whether an Adhoc committee or a House Committee to be put in place to go and look at the Matter within the shortest time possible and report back to this House so that action be taken.

Mr. Speaker we are a Country of impunity and indeed a County of impunity whereby the big people can get away with anything. Mr. Speaker, Hon. Aim said that quite a No. of ordinary people removed their structures in that piece of land on the request of the said developing partner, a few of them refused, why? I think they are doing this because they think that they have their godfather somewhere that will protect them. I think if we would have deliberated on this matter on Thursday then I think that we would not be

talking on this issue today. Mr. Speaker, so that we can deal with culture of impunity which is slowly creeping into our County then we must deal with this matter firmly then report to this House as soon as possible so that we can show the people of Kisumu County that we are really doing something and this will go further and show them that we are a law obeying County.

Mr. speaker if you look at this County there are many “viosks”, so to speak that are coming up in different shapes and colour all over, for example when you go to Avenue hospital there are a number of “viosks” that are coming up which have been erected.. (interrupted)

Hon. Prisca Misachi: Point of information!

Mr. Speaker (Hon. Elijah Omondi): Granted.

Hon. Prisca Misachi: Mr. Speaker I want to say that those “Viosks” that Hon. Ogosi is talking about have been there even before the Hospital was built, those “Viosks” he is talking about are adjacent to the big open air market that we have in east and central Africa and if there is anything to be removed it will be the hospital and our traders to be left to do their business but not to touch our traders in any way.

Mr. Speaker (Hon. Elijah Omondi): I think you are much informed Hon. Ogosi.

Hon. Caroline Owen: Mr. Speaker, I want Hon. Ogosi to stick to what we are talking about on the issue of Hon. Aim.

Mr. Speaker (Hon. Elijah Omondi): Order, Hon. Caroline, it’s now an issue in the House and I want the Members to deliberate on the issue extensively.

Hon. Aggrey Ogosi: Thank you Mr. Speaker for your wise ruling, in the House we are allowed to say anything and everything. What I was saying is that as a County we should not allow different sheds of Colour and type to be placed everywhere because it makes our City look bad, they are mushrooming everywhere. Look at Robert Ouko estate the structures are coming up every day and the County Government is not doing anything, so something must be done. We must plan our City, if you go to Nairobi opposite Nairobi Hospital, there are “Viosks” Mr. Speaker, but they are descent “Viosks” that are planned well and People are allocated specific areas i.e. people who sell flowers, people who sell fruits e.t.c. Mr. Speaker, we must plan our City so that it can be called a City

and we must support the Managers of this City to plan and make sure that things like the market stay where they are supposed to be and not in the estates, thank you.

Hon. Petronilla Omondi: Thank you Mr. Speaker, I want to support this motion, I want to say that this project is something that will help the people of Kisumu County, it's a project that was initiated far back in the year 2008 and after that I think these people were given notices and as per what Hon. Aim told us is that the last notice that they were given was last month.

Mr. Speaker, as we all know that ignorance is no defense in law and all of us would like to have development in our County and from the discussion that we have been having in this House it is coming out very clearly that no one is ready to forgo Kshs 250 Million of Project just because of some temporary structures and again as we all know that anyone who is supposed to have a temporary structure but decides to put up a permanent structure then it means that this person has already planned to stay there for good which is not the case that was agreed in the first place.

I want to recommend that we move with speed so that people of Awasi should be engaged, I also understand the world project is a national project and one would wonder how they have engaged with the local community, how are they going to implement this project, I think these questions are going to come out from the report that we are going to get from the committee that will be formed to investigate on the matter. I want to urge the House to move with a lot of speed so that we do not lose on this important project, even if this developer has committed the money they can on the other hand withdraw if we refuse to give them a parcel of land on where to put up the project. I want to tell you that withdrawing the money is more easier than allocating the money and one can imagine the lose that Kisumu County will have gone through and for how long shall we wait for a project of about Kshs 250,000,000 to happen just because we are claiming that our people did not know and at the same time what I am seeing happening is that there are is a lot of politics playing in the whole thing, there is some politicians that want to protect people that are in the wrong places just to get votes, Hon. Members is that the way to go? We are politicians yes, but we also need to develop our County, that is my take Mr. Speaker and I beg to rest there thank you.

Hon. Pamela Omino: Thank you Mr. Speaker, I stand to support this Motion by Hon. Aim. Mr. Speaker I know that at the end of this debate you will have to commit this Motion to planning committee to make sure that everything is taken good care of, I

know that the documents that Hon. Aim was talking about will be tabled in that committee for further deliberation and analysis.

Mr. Speaker, I want to shed some light on this matter and since my name have been mentioned, I want to say that before the structures were demolished there was a notice which was given by the Kenya National Highway Authority way back in the year 2012, the “X” mark that have been put on the wall is a Notice and in this year 2015 early, there was a notice from KENHA again and even the local Leaders were given the notice and we have had some meetings with the leaders from those areas, we even went to the land offices and even the defunct Local Authority to find out whether the title deeds that the people that were affected had were genuine and as we speak the matter is in Court but the KENHA insist that the properties that come up are in road reserve, thank you.

Speaker (Hon. Elijah Omondi): Hon. Lunghafa

Hon. Salome Lunghafa: Thank you Mr. Speaker. I stand to support this motion of Hon. Ayim. As Hon. Members of this House, we came to change the structure of this County and I think we should stand firm in order to do this. Kisumu County starts from Seme to Muhoroni and Awasi is in the Center of Kisumu County. Let us not stand in to defend the grabbers who are destroying the face of Kisumu County. The Hon. Member wants to change the face of his area and I must congratulate him so let us also support him.

Majority Leader (Hon. Marlin Akinyi): A point of Order. The reason why we wanted to understand the Motion is because of what this Hon. Member is now saying that those whose buildings were demolished at Awasi grabbed the plot. Those people were allocated those areas and it is not right for a Hon. Member to refer to them as Land Grabbers because they were even issued with title deeds.

Speaker (Hon. Elijah Omondi): Hon. Salome can you withdraw your word?

Hon. Salome Lungafa: Mr. Speaker, I am not going to withdraw because if they knew they were given those plots they could have not refused to leave when they were given notices to vacate. When they refuse it means they grabbed.

Speaker (Hon. Elijah Omondi): I am afraid that you called them land grabbers when they were given title deeds as Hon. Marlin has said. At this juncture it would be proper to withdraw.

Hon. Salome Lughafa: Thank you Mr. Speaker, I would replace the word grabbers but say they should respect the law and agree to remove their structures as others have done.

Speaker (Hon. Elijah Omondi): I want to give chance to Hon. Aloo

Hon. Maurice Aloo: Thank you Mr. Speaker for allowing Members to debate on this Motion. Just as other members have said, if we would have debated on this motion last week, we would not be in this situation today. However it is important that we know that this issue is not Hon. Ayim's, it is a County's issue. As we give a decision on this, it is also important that you give a direction that the County Government writes a letter to the Contractor for an extension of time so that we do not lose the money and as Members of the Assembly, we are debating on it and very soon we shall come up with a decision on the same. I also want to say that on that day, many Members were having interest in this particular debate and I am happy that today it has cooled. I want to remember on that day Hon. Paul Okiri even cited a particular Standing order and I believe it was deliberate. I am very happy the way Members have approached it today and let it be clear that the County Government should draw a letter to this Contractor immediately as we deliberate on this issue. Thank you.

Hon. Caroline Ogot: Thank you Mr. Speaker for this opportunity. The Motion is laid before us and as we all know the direction it has taken, I have few questions in mind but still I am not able to find answers. This Motion has been brought before the House and it indicates that the Hon. Members should request or rather put pressure on the County Government to manipulate but I would want to get into the war that I understand. I want to be told the truth. There seems to be more than what meets the eye. Let me get all the information then I will know where to stand or how to come in. I would request the Hon. Member Hon. Ayim to kindly bring all the information and if this is not possible let us constitute a committee to look into the matter to get us the dark that cannot be brought on table. We could say we have settled cores but at the end of the day it could generate something else. There was fire that was burning in Awasi, we do not know which way it could take but then I would call the two Hon. Members who share this particular market to find an amicable way of sorting it out otherwise if we continue with chest beating or chest forward, then it will turn into something else. At the end of the day somebody has lost the valuables at the cost. Thank you.

Speaker (Hon. Elijah Omondi): Hon. Pamela Odhiambo

Hon. Pamela Odhiambo: Thank you Mr. Speaker. I want to oppose this motion because we are going to have a bus park which is going to be a modern one. I would like to say that the Hon. Member who brought this motion to the house had good intentions but he made a remark that these people were given enough time to vacate and time had now elapsed. It doesn't therefore mean that mob justice should just go and burn people's businesses and I cannot support that because we are supposed to have talked to these people first. We all know we were given the TOL by the Municipal. This TOL we are told to build structures but when they want them demolished, they would come in the night without notice given, we had deliberated in this house that we should not demolish structures before we talk to these traders. We had discussed this in the house. We want to know these mob who destroyed people's buildings. Why were they burning trader's property? They could as well gone in the morning and throw their belongings out then therefore they could demolish those buildings.

Hon. Eunice Miruka: Thank you Mr. Speaker. It seems this motion has been exhausted and I call the Mover to reply.

Speaker (Hon. Elijah Omondi): The mover, you have been called to reply but as the chair I want to request that you do away with the motion that this house delayed to take action that is why there was a problem at Awasi. As the Chair, I want to tell the mover that is not true. This house do not take part in the mess at Awasi and I want to tell you the matter is before the Court. As you reply, you can address that issue.

Hon. Fanuel Ayim: Thank you very much Mr. Speaker Sir. Let me start by thanking members who have participated in this important motion and again it is not my wish to withdraw the truth. I hope you will put this matter to the appropriate committee to investigate further and I hope the truth will come out. The documents which are talked about are there. Thank you very much.

Speaker (Hon. Elijah Omondi): Thank you. Hon. Members, you have heard contributions and the matter is very weighty. It was simple at the beginning but it has continued being complicated to the extent that property and goods have been burnt. As we fight for justice let us also be sensitive to rights and privileges. I want to submit this to the Sub section of Planning and this matter must be dispense with immediately.

Hon. Jushua Auko: Mr. Speaker, if I heard you clearly, you said this matter is in Court. Which court is it and can you elaborate it properly?

Speaker (Hon. Elijah Omondi): Order Hon. Auko. The matter is likely to be before court so if you did not get me properly then that is how it is. The following chairs will be incorporated, Justice and Legal Affairs, Chair for Trade, Security Chair and this matter should be reported back to the House on Tuesday next week. Let there be a committee of about 7 people spearheaded by the Planning.

Adjournment

There being no other business, this Assembly adjourns until tomorrow at 9.00 o'clock

(All Arise)

(Speaker's Procession)

(House adjourns at 5.15 p.m)

Addendum

Hansard Reporters

Roseline Awuor

Gladys Chepkong'a

David Ayieko

Dennis Odhiambo