

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT**Wednesday, 24th August, 2016

The House met at 2.39pm.

*(Temporary Speaker (Hon. Fadhili Mwalimu) in the Chair)***PRAYERS****Temporary Speaker** (Hon. Mwalimu): Members have a seat. Clerk?**PETITION**

Yes Hon. Members, the House has received a petition, from residents of Tononoka Ward, the approval of their petition states that;

"Approval given for construction of a building within an illegal space plot space plot no. 56/XVII located at Kaloleni Mombasa. The residents and tenants are against the approval by; The National Construction Authority, The National Environment Management Authority (NEMA) and The County Government of Mombasa Department of Lands Planning and Housing".

Due to the circumstance surrounding the plot;

1. An electrical pole with underground cable;

2. It is through way;

3. Playing ground for the children

4. The size of the plot is questionable

5. Rain water way

6. Entrance to the neighbors will be difficult

(End of Petition)

Hon. Members the petition is signed by...; it's signed by 35 residents from that area, and Hon. Members before I commit the petition to the Sectoral Committee concerned It is under our Standing order that the Speaker can allow any comments from this petition.

So if there is any comment before I give it to the Sectoral Committee under the grounds that I have stated the floor is open, and if there is no comment, yes Hon. Wangudi.

Hon. Wangudi: Thank you Mr. Speaker for the opportunity. Mr. Speaker i'm trying to look into my Standing Order and Honorable the manner in which a petition is authorized in this Hon. House as per the petition in the Standing Order, maybe we receive a communication from the Honorable Chair.

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Temporary Speaker (Hon. Mwalimu): Which Standing Order, Standing Order number?

Hon. Wangudi: Number 194, Mr. Speaker.

Temporary Speaker (Hon. Mwalimu):...Standing order 194, there is nothing wrong with Standing Order 194, unless there are comments concerning this issue.

The land issue that has been raised by the residents from this area but I can see they are no comments under Standing Order number 200.

Hon. Wangudi petition is in order under Standing Order No. 200 to 202; just go through the Standing Orders.

I can see that the petition is in order so I commit this Petition to the Committee on Lands and Housing but the Committee should put in mind that under our Standing Order 202 we give you 60 days for you to respond back to the Petition and so we will also need the House to know what has transpired. Yes Clerk.

PAPER

Hon. Kibwana.

Hon. Kibwana Swaleh: Thank you Hon. Speaker I stand before this Honorable House saying that the report on lack of drugs in Maweni dispensary is not yet ready because it lacks some clarity on the report that I have received.

So I have directed my Clerk to take it back to the Health department that we have been asked by Hon. Member, that is Hon. Opeya who is representing Maweni I mean that area.

So Hon. Speaker I would just ask to give me two weeks so that we prepare this report for this Honorable House, thank you Hon. Speaker.

Temporary Speaker (Hon. Mwalimu): So in two weeks time the report will be ready, yes Clerk?

NOTICE OF MOTION

Hon. Mohamed Hatimy.

Hon. Mohamed Hatimy: Thank you Mr. Speaker Sir. Mr. Speaker am surprised to see that this is a Notice of Motion; it is supposed to be under 49 (i).

This is a Motion and will need to go back and ask why action has not been taken in this House. Thank you.

Temporary Speaker (Hon. Mwalimu): So it is not a Notice of Motion?

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Hon. Mohamed Hatimy: It should be a Motion Mr. Speaker.

Temporary Speaker (Hon. Mwalimu): It has passed in this Hon. House.

Hon. Mohamed Hatimy: Yes Mr. Speaker long time ago.

Temporary Speaker (Hon. Mwalimu): The Motion am sure it has passed the six months period, it has elapsed.

So Hon. Hatimy it will be in order for you to first give the Notice then i will give you a privilege of bringing it as a Motion in this House in this session.

Hon. Mohamed Hatimy: Thank you Mr. Speaker in fact I want to be granted so that I can bring it as a Motion before giving a Notice of Motion.

Temporary Speaker (Hon. Mwalimu): I have already granted Hon. Hatimy, I have already granted you the opportunity to bring it as a Notice of Motion and then proceed it to a Motion so you can proceed, just bring it procedurally.

Hon. Mohamed Hatimy: Thank you Mr. Speaker;

(Hon. Mohamed Hatimy read Notice of Motion)

"THAT AWARE that the County Assembly on Wednesday 3rd December 2014 approved a Motion for the establishment of a Conflict of Interest register;

FURTHER AWARE that on Tuesday 23rd August 2016 the County Assembly Members signed the Leadership and Integrity Code binding Members to uphold high standards of integrity Mr. Speaker.

Mr. Speaker CONCERNED THAT failure to open the Conflict of Interest register will render the efforts to enforce the law useless;

Mr. Speaker I THEREFORE urge the County Assembly to resolve that the County Assembly Clerk to open and maintain as per the law a Conflict of Interest register at the County Assembly Mr. Speaker.

I move Mr. Speaker and I request this House to grant leave to amend or to change the comma to a full stop. Thank you Mr. Speaker.

(Hon. Mohamed Hatimy ended reading the Notice of Motion)

Temporary Speaker (Hon. Mwalimu): Thank you, yes Clerk.

MOTION

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Yes Hon. Hatimy?

Hon. Mohamed Hatimy: Thank you Mr. Speaker. Mr. Speaker I wish to table the following Motion; the opening of Conflict of Interest Register.

(Hon. Mohamed Hatimy read the Motion)

"THAT AWARE that the County Assembly on Wednesday 3rd December 2014 approved a Motion for the establishment of a Conflict of Interest Register;

FURTHER AWARE that on Tuesday 23rd August 2016 County Assembly Members signed the Leadership and Integrity Code binding Members to uphold high standards of integrity and ethics Mr. Speaker.

Mr. Speaker CONCERNED THAT failure to open the Conflict of Interest Register will render the efforts to enforce the law;

I THEREFORE urge the County Assembly to RESOLVE that the County Assembly Clerk to open and maintain as per the law a Conflict of Interest Register at the County Assembly".

(Hon. Mohamed Hatimy ended reading the Motion and tabled)

I beg to move Mr. Speaker.

Temporary Speaker (Hon. Mwalimu): Any seconder?

Hon. Faraj: I second Mr. Speaker.

Temporary Speaker (Hon. Mwalimu): I now take this opportunity to propose a question that this House debates the amended Motion on Conflict of Interests Register.

(Question proposed and agreed to)

Yes any comments from Members, yes Hon. Hatimy.

Hon. Mohamed Hatimy: Mheshimiwa Spika natumai kuwaambia kwenye Nyumba hii waheshimiwa wenzangu kwamba niliileta hii MswadaTarehe 3 Disemba mwaka 2014 na mpaka leo Mswada ule haikufanyiwa kazi Mheshimiwa Spika na sisi twaomba Karani wetu ahakikishe kwamba hii rejesta imefunguliwa.

Na kama tulivyoona jana Mheshimiwa Spika sote tulitia sahihi ya kukubali chini ya *Leadership and Integrity*.

Mheshimiwa Spika na ukiangalia *Third Schedule* kuna vitu vingi sana ambavyo vinatajikana sisi kama waheshimiwa tuweze kurekebisha hivi vitu na pia kwenye *Code of Conduct* tuliotia sahihi.

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Pia utaona pia kuna zawadi ambazo sisi tutapatiwa lakini Mheshimiwa Spika zile zawadi nyingi mtu huwa ni zake anachukua na anakwenda nazo.

Kwa hivyo naomba Mheshimiwa Spika Nyumba hii tuweze kuchukua.....safari hii ..inavyosema ili tuweze kufungua kitabu hiki na tuweze kutia yale mambo ambayo inatakikana kufanywa.

Mheshimiwa Spika kwenye Bunge letu kumekuwa na mambo mengi kuambiwa hakuna pesa, mambo ya nini ya nini tuna sheria hakuna mtu anayekatazwa, hakuna mkenya yeyote amekatazwa na sheria kuongoza ama kufanya jambo lolote kama yeye hajakaa kwenye Kamati ya...

Kwa hivyo hii sheria iko wazi yule mtu ambaye hata kama ni *partners* wa kampuni ambayo ...madamu hana asilimia moja ya ile kampuni au kusema hana hisa katika kampuni ana haki kujihusisha.

Mheshimiwa Spika kwa hivyo twataka tufungue kitabu cha *conflict of interest* leo mtu akionana jambo lolote aende ajisajili aweze kuu...

(Interruption)

Temporary Speaker (Hon. Mwalimu): What's your point of order?

Hon. (Ms.) Akinyi: I am on a Point of Order on Standing Order 73, you speak in one language if its Kiswahili, you speak in Swahili if it is English you speak in English so the Member on the floor is mixing the languages. Thank you Mr. Speaker.

Temporary Speaker (Hon. Mwalimu): Yes Hon. Hatimy, stick to one language.

Hon. Mohamed Hatimy: Mheshimiwa Spika sijui anasema nini kusoma ama kusema *conflict of interest* sijaona kwa Kiswahili.

Sisi tunazungumza *conflict of interest* sio maneno yangu lakini wewe ile karatasi uliyo tia sahihi ukisoma nambari 15 utaona imeandikwa Kiingereza, kwa hivyo sidhani kutumia neno ambalo silo ni kama nimedanganya ama ikawa ni vibaya.

Kwa hivyo sijui kama yeye aliyesimama kwa *Point of Order* anieleze neno *conflict of interest* atumie neno gani Mheshimiwa Spika.

Nikiendelea *Third Schedule* ya stakabadhi tuliyoitia sahihi ina mambo mengi sana, kwa hivyo kitabu kufunguliwa ni lazima kifunguliwe sisi tufanye kazi inavyotakikana.

Kama unavyojua Mheshimiwa Spika watu huzungumza mambo ambayo hayana maana; maneno ambayo ni ya uzushi, yule afanya hivi huyu afanya vile tukifungua hiki kitabu maneno haya yote yatapotea.

Kwa hivyo naomba Mheshimiwa Spika Karani tumpe masaa 24 ili aweze kufungua hichi kitabu. Ahsante.

Temporary Speaker (Hon. Mwalimu): Hon. Hatimy it is not in the prayers, the 24 hours or is it another amendment asking the House?

Hon. Mohamed Hatimy: Mheshimiwa Spika nafikiri ukiwa unajaribu kujenga ile hoja yako unaweza kuomba jambo lolote iwapokuwa haiko kwenye ombi lako.

Ukiangalia Mswada uliopita utakuta aliambiwa kwa haraka inavyowezekana kitabu kifunguliwe lakini kitabu hakikufunguliwa.

Kwa hivyo nilikuwa nasema tufungue kitabu Mheshimiwa Spika, hio masaa 24 iwe itawezekana.

Temporary Speaker (Hon. Mwalimu): Yes Hon. Opeya.

Hon. Opeya: Thank you Hon. Speaker. I also support the Motion that has been brought by Hon. Mohamed Hatimy about the Conflict of Interest Register.

In fact it was passed in 2014 and I am even wondering why it was not implemented, and as the new Chairman of the Implementation Committee I will ensure that it is implemented, I will be in the Clerk's office to make sure it is implemented.

(Applause)

Temporary Speaker (Hon. Mwalimu): Hon Amur?

Hon. Amur: Thank you Mr. Speaker, to add or to elaborate on the issue any gift given to any Member within the limit of Kshs.20, 000 is allowed.

So we should know the range that we are given by any person. it should not reach more than Ksh.20,000, within Ksh.20, 000 that gift is allowed by the constitution.

Mr. Speaker there is no objection about it, other than those gifts of cars and other things it is not allowed by the law. Thank you.

Temporary Speaker (Hon. Mwalimu): Hon. Amur do not try to introduce a law that does not exist, it clearly says that you can be allowed but there are ways of the person intending to give, if it is a bribe then it will be abuse of the law, be it a gift then it is another...

(Interruption)

Hon. Amur: Mr. Speaker I was attending another occasion and the Senator of this County was given a gift he inquired in front of the public, *'Is this gift more than Ksh.15,000? Because in*

the integrity chapter it says any gift given should not go beyond Kshs.20,000 and should be accepted and beyond that it is questionable".

I just wanted to put it clear so that when you go as a guest in any function you are given, like me if I go Lamu County I am given a Muslim hat; there are those of Kshs.20,000, Ksh.15,000 will I take it? I was giving more information to Members that within Kshs.20,000 it is allowed more than Kshs.20,000 it is questionable Mr. Speaker. Thank You.

Temporary Speaker (Hon. Mwalimu): Thank you Hon. Amur but I am emphasizing that it be a gift not a bribe even if the value is Kshs.20,000 but if it is a bribe then that is abuse of law but if it is a gift as you have said that someone has gone for an official visit and receives a personal gift for him to declare back to the House that you have been given a gift of this amount there is nothing wrong.

If you receive something that is expensive more than the Kshs.20,000 and you do not report back it might be used against you because it is going against the code of conduct that you have signed Hon. Members. Yes Hon. Siminyu?

Hon. Siminyu: Thank you Mr. Speaker, if you look at part 13 of the Act, 'It shall be the responsibility of the State officer to ensure that entry of register, able interest under this section.

For us to be able to practice this we have to have this registry even in our disposal Mr Speaker, any state officer working under the same unit should register any conflict of interest issues.

Mr. Speaker it is very important because since the Motion was brought early this year nothing has been done and it is very important for this House to make sure that each and every thing that we do as an Assembly goes according to the law.

I fully support the Motion that has been brought by our able Finance Chair Hon. Hatimy because this will make sure that each and every State officer including us follow the due process of the law.

Mr. Speaker i urge this House to make sure because it is into the first time that this thing has been brought to this House and nothing has been done, i think 24hrs has been long it has to be now i support fully. Thank you.

Temporary Speaker (Hon. Mwalimu): Yes Hon. Saad.

Hon. Faraj: Ahsante sana Mheshimiwa Spika kwa fursa hii, nimesimama kuunga mkono Mswada huu ambao kwamba ni mswada uliokuwa umepitishwa katika Bunge hili Disemba 2014.

Mheshimiwa Spika tumekuwa tukilalamika kila leo katika Nyumba hii kwa kuwa yale mambo ambayo twayapitisha mambo ambayo ni muhimu yanakosa utekelezaji na hili jambo ni moja kati ya mambo mengi ambayo kwamba hayajawahi kupata msukumo ambao unahitajika ili ipate msukumo unaotakikana.

Ni lazima tuwe na mfumo ambao kwamba utaleta mabadiliko ambayo yanahitajika kutoka kwa zile sharia ambazo tunazotunga katika hili Jumba.

Mheshimiwa Spika, kama ilivyosisitizwa na wenzangu hapo awali ni kuwa sisi tuliweka sahihi mkataba baina yetu sisi na wale ambao kwamba wanaohusika na maswala ya ufisadi na mojawapo wa mambo ambayo kwamba tumeweza kuwekea sahihi.

Ukiangalia sharia ambayo ilioko katika katiba ni swala hili la kuweza kujitambuliza ama kujitambua kuwa wewe unataka kufanya jambo fulani, na ni lazima uwe umejitangaza rasmi ueleweke kuwa lile jambo utalifanya, ni haki ya kila mmoja kufanya biashara katika Kaunti yetu hii na katika nchi yetu hii.

Hata kama ni kiongozi ana haki pia ya kutekeleza majukumu yake yeye na watoto wake kule majumbani Mheshimiwa Spika na ndio maana mtu anatakiwa tu ajitangaze aseme kuwa mimi niko na *interest* na hili jambo akae pembeni asiwe ni mojawapo wa wale ambao kwamba wataweza kutoa uamuzi katika kupeana ile.

Sharia imempa nguvu kila mmoja; mwananchi, kiongozi na kila mmoja kule mashinani kuweza kujihusisha na mambo kama haya na ni muhimu hili jambo liweze kutekelezwa moja kwa moja.

2014 mpaka leo ni siku nyingi sana na mimi naunga mkono maongelezi ya Mheshimiwa Hatimy ya kuwa kupitia kwa Kiti chako upeane masaa 48 kama alivyoomba Mheshimiwa Hatimy ili kusudi tuweze kufanya mambo vile inavyohitajika, inaonekana Nyumba hii ni Nyumba ya kuzungumza peke yake kwa sababu kila tukizungumza tukipitisha miswada hatuyaoni kule mashinani yakitekelezwa na ndio twaonekana sisi hatuwajibiki katika kazi zetu. Ahsante.

Temporary Speaker (Hon. Mwalimu): Yes Hon Amir.

Hon. Thoya: Ahsante sana Mheshimiwa Spika, nimesimama kwanza kumshukuru Mwenyekiti wa Fedha kwa kuweza kuleta hoja hii muhimu na Mheshimiwa Spika ni masikitiko kwa sababu hili ni Jumba la sharia lakini 2014, miaka miwili imepita kwa utekelezaji wa maswala ya kufunguliwa kwa *register* maalumu na haikufanywa na hili ni moja tu.

Iwapo kiti chako hakitaweza kuchukua hatua katika kutekelezwa hoja nyingi zile ambazo zinapita katika Nyumba hii tukufu basi itakuwa hakuna hata sababu ya kuja hapa na kuchukua mda kujadili na kupitisha hoja ambao mwisho wa kuisha hakuna kwenye zinaenda.

Kuna Kamati ya Utekelezaji nafikiri iende moja kwa moja kuhakikisha kwamba mambo haya yote yanatekelezwa lakini kiti chako moja moja iweze kutoa amri ambayo itakua sio hoja hii peke yake kwamba ipitishwe bali kuna nyingi ambazo zimeweza kufika katika Bunge hili kuhakikisha kwamba zimeteketelezwa.

Ndio na sisi tutakua na sababu ya kutumia fedha ya mwananchi kwa sababu ni haki yao kuhakikisha kwamba hoja ambazo zinapitishwa na Bunge kutekelezwa katika Kaunti yetu ya Mombasa. Ahsante sana Mheshimiwa Spika naunga mkono.

Temporary Speaker (Hon. Mwalimu): Hon Hatimy respond to the Motion.

Hon. Mohamed Hatimy: Ahsante Mheshimiwa Spika, nachukua fursa hii kuwapongeza wenzangu kuwa wanajua kwanini hii yataka ifanyike.

Kwa hivyo yangu ni machache kusema kuwa tupatiwe uamuzi wa kusema kuwa Mwenyekiti wa Utekelezaji yuko tayari kesho kuwa nacho hicho kitabu.

Kwa hivyo naomba uamuzi wako uwe utaenda kwa ule msemu tuliosema sisi ili ombi tuliloleta iwe kitabu hiki kionekane tayari kimefanywa.

Kwa hayo machache naomba kuwashukuru wenzangu kwa kuweza kutambua hii, ahsante Mheshimiwa Spika.

Temporary Speaker (Hon. Mwalimu): As it has been said by the Hon. Members the button is in the Implementation Committee; to make sure to track down the Motion that passed in this House that are yet to be implemented.

So the Implementation Committee take charge and track down these Motions that have not yet been implemented, and I know I stand to put a question on the Conflict of Interest Register as amended by this Hon. House, the Clerk to open this Conflict of Interest Register as soon as possible.

(Question put and agreed to)

(Applause)

Yes Clerk.

ADJOURNMENT

The House stands adjourned until tomorrow afternoon.

The House rose at 3.09pm.