

**MOMBASA COUNTY ASSEMBLY  
HANSARD REPORT**

Wednesday, 1<sup>st</sup> March, 2017

The House met at 2:35pm.

*(Temporary Speaker (Hon. Fadhili Mwalimu) in the Chair)*

**PRAYERS**

**Temporary Speaker** (Hon. Mwalimu): Members have a sit. Members I stand under Standing Order 31 and am ordering Sergeant At Arms to ring the quorum bell.

*(Quorum bell rung)*

*(Members entered the Chamber)*

Yes Clerk ascertain whether there is quorum...

*(Clerk confirmed quorum)*

**NOTICE OF MOTION**

Notice of the Motion, Hon Mohamed Hatimy? Any Hon Member of Delegated to take us through this Notice of Motion. Yes Hon Onje read it.

**Hon Onje:** Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika vile unavyojua mimi ni Naibu Mwenyekiti wa Kamati ya *Delegated County Legislation*, sasa kwa ruhusa yako nitaendelea kusoma Mswada ambao ni kwa niaba ya Mheshimiwa Hatimy kama utanipa ruhusa.

*(Hon. Onje gave Notice of Motion on formal delegation of duties by Chief Officers and seniors)*

Mr. Speaker Sir, I beg to give notice of the following motion;

**THAT AWARE THAT** it is the right of every employee to proceed on annual leave or any other leave recognized by law;

**FURTHER AWARE THAT** the Chief officers and Senior Officers working in the County Government normally enjoy this right as required by law;

**CONCERNED THAT** the aforementioned officers do not delegate the duties in writing and hence the officers who are supposed to stand in for them are not clearly informed in writing of the duties that they are required to partake in the absence of the officer proceeding on leave;

**NOTING THAT** the lack of effective delegation stalls the work output in the affected department(s) and the County government at large and undermines transparency and accountability and also results to unnecessary delays in service delivery;

Mr. Speaker Sir,

I urge this Assembly to **RESOLVE** that;

- The County Secretary and the County Assembly Clerk to develop a system that will ensure that all the Chief Officers and Senior Officers proceeding for annual leave hand over their duties for those in the office in writing;
- The County Secretary/County Clerk to ensure adherence to the requirement that staff proceeding on leave prepare an itemized hand over note with a copy to be issued to the County Secretary/ Clerk as the case may be, and other Heads of Departments.

Thank you Mr. Speaker sir I read to move.

*(Hon Onje moved)*

**Temporary Speaker** (Hon. Mwalimu): Thank you Hon Onje, the Notice of Motion now rests to the House Business Committee to allocate time for this Motion, yes Clerk.

**STATEMENT**

Hon Zainab Mumba.

**Hon. Faraj:** Hon Speaker I wish to stand on behalf of Hon Zainab Mumba because she's my Chairlady on the side of environment and Mr. Speaker Hon Zainab has requested for more time to come up with the statement if you will allow.

*(Interruption)*

**Temporary Speaker** (Hon. Mwalimu): Hon Mary Akinyi the Chairperson on Environment and Natural resources has requested for more time but as the Assembly we will give the Chair and the Committee since there is time, so make sure by next week on Tuesday you have this response in the House. Yes Clerk.

### STATEMENT

Yes Hon Amir Thoya.

**Hon. Thoya:** Thank you Mr. Speaker sir. Mr. Speaker sir I stand before this Hon House to give out a reply on the statement requested by Hon Omar Ebrahim, Deputy Chair of Sports Youth and Gender regarding Deputy Chair.

*(Interruption)*

**Temporary Speaker** (Hon. Mwalimu): What is it Hon Saad?

**Hon. Faraj:** Thank you very much Mr. Speaker; there is a Committee leadership being distributed by fellow Members in this House. Mr. Speaker this is not procedural.

**Temporary Speaker** (Hon. Mwalimu): Just proceed with the reply but make sure you refer well.

**Hon. Thoya.** Thank you Mr. Speaker sir. Mr. Speaker sir, Hon Omar Ebrahim is the Deputy Chair of Sports and gender; I would like to give the following statement, in regards to lack of proper lighting in Kongowea Market, in response to concerns raised by Hon. Ebrahim Omar during the Twenty fourth sitting on Thursday, 23<sup>rd</sup> February 2017.

*(Hon Thoya read)*

Mr. Speaker Sir, as all are aware, there had been a construction project which was recently undertaken by the National government for the purpose of upgrading the Kongowea market.

Due to the above mentioned project, the Market Master earlier reported this issue to Electrical Department; in addition the Electrical Department communicated in writing to Eng. Albert Keno who is the Chief Officer Department of Public Works, Transport and Infrastructure that part of Kongowea Wholesale Market had experienced electrical shots leading to improper lighting.

However, Mr. Speaker Sir, the electrical engineers have been working around the clock to ensure the immediate resumption of the lighting services to Kongowea Traders Market.

Mr. Speaker sir, I would like to assure Members of the County Assembly and the public at large that as we are speaking the problem has been solved.

Thank you Mr. Speaker sir.

**Temporary Speaker** (Hon. Mwalimu): Thank you Hon Amir Thoya. What is it Hon Omar Meti?

**Hon. Siminyu:** Mr. Speaker Sir, I want to thank the Chairman for Transport and Public works for the reports; but truly speaking there some remarks which they did not make sense to me because Mr. Chairman has said that the problem has been solved but I can assure you up to now even if you go to market during the morning hours you will see finding the problem existing.

So maybe he may read this report by saying the problem will be solved but it has not yet been solved Mr. Speaker, so that's a correction Mr. Speaker because during the morning hours is

where the traders are finding difficulties when they want to distribute their goods in the market because it is total darkness and they have to use their phones, the *mulika mwizi* ones as torches.

So when the time reaches around 9 to 10 O'clock in the morning Mr. Speaker the charges are exhausted or finished so they cannot do the transaction for M-pesa when they need to communicate with their customers about the arrival of their goods which have been ordered.

So this is a very urgent issue Mr. Speaker, and I need the Chairman to clarify that the problem is not solved and it is going on and it will be solved soon rather than misleading the House by saying the problem has been solved.

**Temporary Speaker** (Hon. Mwalimu): I hope Hon Amir Thoya you are not responding to what has been said by Hon Meti.

**Hon. Thoya:** I would like to make two clarifications Mr. Speaker.

**Temporary Speaker** (Hon. Mwalimu): Ok...

**Hon. Thoya:** Mr. Speaker Sir, the earlier reported problem was the lighting but am surprised Hon Member is talking of lighting in the Kongowea Market during the day...

*(Laughter)*

**Temporary Speaker** (Hon. Mwalimu): We have understood, Hon Meti is as if you are introducing the issue of mobile phones that was what a Hon Chairman have understood but all in all the Chairman has responded and he acted on what you have said for him to make sure he rectifies his statement that problem would be solved. Yes Clerk, let's proceed.

### MOTION

Yes, Hon Saad Faraj...

**Hon. Faraj:** Thank you Mr. Speaker for this opportunity on behalf of Hon Mohamed Hatimy who is the mover of the Motion, if you allow me Mr. Speaker I would like to move this Motion on his behalf.

**Temporary Speaker** (Hon. Mwalimu): You may proceed am sure he has given you the mandate to move this Motion.

**Hon. Faraj:** Yes Mr. Speaker there is a letter to move the Motion his behalf.

*(Hon Saad moved Motion on confirmation of qualified officers serving in acting capacity)*

Mr. Speaker Sir, I beg to move the following Motion;

1. That aware that the employment laws and policies require that an officer who has served in an acting capacity and has the relevant qualification(s) and/or experience should be confirmed to the substantive position;
2. Further aware there are many officers who are serving in the County government and they have the relevant qualifications yet they still serve in acting capacity;
3. Mr. Speaker Sir, concerned this may lead to high turnover and lack of motivation at the place of work and hence his productivity and encourage vices such as corruption;  
Mr. Speaker, I this Assembly to resolve that;
  1. The County Secretary and the County Assembly Clerk to liaise with the County Public Service Board and the County Assembly Service Board respectively to have the acting officers who are qualified and possess the required technical skills to be confirmed in substantive positions.
  2. The County Secretary to liaise with the Office of the Governor on deployment of the qualified staff.

*(Hon Faraj moved)*

Mr. Speaker, I beg to move and call upon Hon Jimmy Khadarli to second this Motion.

*(Hon. Odari bowed)*

**Temporary Speaker** (Hon. Mwalimu): Thank you as the Motion has got a seconder, I now propose a question; as many of the opinion that the Motion that Saad Faraj on confirmation of qualified officers serving in acting capacities been debated in this House...

*(Question put and agreed to)*

Yes Hon Saad...

**Hon. Faraj:** Thank you once again Mr. Speaker. Mr. Speaker we as Members of the County Assembly have already discussed issues that are attached to our welfare and for a long period we have forgetting people who have been working so hard to make sure that issues in the Assembly, issues that matter with regards to the welfare of the Members are being dealt with by this people.

Mr. Speaker sir it is high time that these Members appreciate, show appreciations to these staff by passing this Motion which is going to have a very positive impact from the way the staff are carrying themselves in this County Assembly.

Mr. Speaker we've spoken about those staff that are working on acting capacity and the law clearly states that for a certain of period of six months if a person serves on an acting person then he or she should be confirmed but today we are having staff who have been working on acting capacity for more than three years since we came as Members of the County Assembly representing our representative areas.

Mr. Speaker we have people or staff who have experience in different fields but we have failed to promote them because they lack documents but they work and they show that they are very responsible in their positions and some of them have been producing results while they do not have those relevant documents which are needed.

And I think we need to be fair enough for those Members who we actually inherited from Municipality; from the defunct Municipality since during the time they were no opportunity to go for training but after our coming Members of the County Assembly it is for us to come up with the aims and show support to these people and now that there are opportunities for training to provide them with the relevant training that they are needed but at the same time it is high time that we promote these members of staff.

Mr. Speaker I call upon all the Members to support this Motion so that we can improve the way we are working in this Assembly. Thank you.

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

**Hon. Thoya:** Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika nimesimama katika ukumbi wa Jumba hili kuweza kuunga mkono hoja ambayo imeletwa na ndugu yangu Mwakilishi wa Tononoka Saad Faraj.

Mheshimiwa Spika hili ni Jumba na sheria na ni mahala tunapolizungumzia suala hili inakuwa si sawa mfanyikazi ama mtumishi wa umma ama mtumishi wa Kaunti hii kwamba anafanya kazi takriban miaka miwili ama mitatu katika hali ya ku *act* kwa nafasi ambayo iko wazi na pengine ingehitaji nafasi ile iweze kujazwa.

Mheshimiwa Spika endapo utaweka mfanyi kazi aweze kufanya kazi hii kwa muda mrefu inamaanisha kwamba tumemzuiliwa mtu mwingine pale chini ili kuweze kuingia katika ile nafasi ambayo pengine huyu ambae anafanya nafasi ya juu angeweza kuthibitishwa kupitia kwa County Assembly Service Board kufanya kazi kulingana na ile kazi, kulingana na uwezo tunazuilia wale wa chini kupanda.

Mheshimiwa Spika wafanyi kazi wengi ambao wanafanya kazi katika shirika hili wanafanya kazi na sisi kama watunga sheria tumeweza kukalia nafasi hizi kwa sababu ni lawama

zetu kwa sababu sheria inapopita katika Bunge hili inatajikana iweze kutekelezwa muda ule ule ambao umepitishwa.

Nakumbuka ya kwamba Mheshimiwa Spika si mara ya kwanza hoja kama hii kuja katika Bunge letu na ikapita na bado hali kama ile inaendelea; kwa hivyo ningeomba utekelezaji wa sheria hii uweze kufanya kazi mara moja kwa sababu ninaamini ya kwamba hali kama hii imeathiri watu wengi na wale waheshimiwa wengi ambao wataweza kuchangia tuchangie kwa busara kwa sababu sisi ni watetezi na sisi ndio wawakilishi na bila sisi kuweza kupitisha hoja hii leo wafanyi kazi wetu wataendelea kuumia na naona Nyumba hii haitakuwa sawa.

Kwa hivyo tupitishe ili tuweze kutoa nafasi kwa wale wengine wadogo waweze kupanda katika ngazi mbali mbali za Bunge ama nafasi za utumishi wa Bunge la Kaunti.

Kwa hivyo tupitishe tuweze kuhakikisha kwamba wale wengine wanapanda wanajaza hizi nafasi ambazo zitawachwa wazi kwa wale ambao wako kwa nafasi za kushikilia. Ahsante sana Mheshimiwa Spika.

**Temporary Speaker** (Hon. Mwalimu): Yes Hon Mary.

**Hon. (Ms) Akinyi:** Ahsante Mheshimiwa Spika, mimi pia naunga mkono jambo hili nikiwa ninasisitiza haswa vitengo vyote ambavyo viko katika Kaunti yetu hii ya Mombasa, *departments* zote ili haya mambo yaweze kutekelezwa haraka iwezekanavyo, nikiwa naangalia ile *department* ya *inspectorate* unaona kuwa hata wale watoto ama vijana ambao wao ni maaskari wengine pia wanasaidia katika kukusanya fedha za kugeza magari ndio wanaongeza ushuru katika Kaunti yetu ya Mombasa lakini kufikia hadi leo hawajakuwa wameandikwa *permanent* bali ni kama *contract* na *contract* kama ku *act* tu na hiyo ndio kama vile aliyetoa hii mjadala aliyekuja nayo akasema kuwa inachangia hata katika hali ya ufisadi.

Kwa hivyo Mheshimiwa Spika ningeomba, tena naunga mkono jambo hili na iweze kufanyika haraka iwezekanavyo haswa kwa kila kitengo ambacho tuko nacho, ahsante Mheshimiwa Spika.

**Temporary Speaker** (Hon. Mwalimu): I hope Hon Member you are not opposing this Motion, unless you are opposing i will give you an opportunity if you are opposing i will proceed to put a question...

*(Laughter)*

Hon Members will as many as of the opinion that this Motion on confirmation of qualified officers serving as acting capacities be confirmed.

*(Question put and agreed to)*

*(Applause)*

Yes Clerk

### PROCEDURAL MOTION

Yes Hon Mwidani, Leader of Majority.

**Leader of Majority** (Hon. Mwidani): Thank you Mr. Speaker, let me table a Procedural Motion.

### ADOPTION OF THE COUNTY ASSEMBLY CALENDAR 2017

*(Leader of Majority Hon Mwidani read)*

Pursuant to Standing order 24 and 25, the Assembly resolves that the calendar 2017 be adopted.

Mr. Speaker from 17<sup>th</sup> January to 20<sup>th</sup> April we are going to have Tuesday, Wednesday and Thursday, from there we are going to have a recess from 6<sup>th</sup> April 2017 to 28<sup>th</sup> April 2017, then we move to the period of 2<sup>nd</sup> May 2017 to 8<sup>th</sup> June 2017 Tuesday afternoon, Wednesday morning and afternoon, Thursday afternoon, then we have a recess till Sine die on 15<sup>th</sup> June 2017.



I am proud to produce this Motion and Members i hope they will accept it and so that we move it, we wait until maybe when God wishes and actually pray to Members so that after this recess Sine die on 15<sup>th</sup> June I might see them September here. I wish to have all those present as Members on September, thank you Mr. Speaker, I would like to call Hon Wangudi Stephen to second this...

*(Laughter)*

**Hon. Wangudi:** Mr. Speaker I second.

**Temporary Speaker** (Hon. Mwalimu): Hon Members I propose a question that as many as of the opinion that the Procedural Motion on the adoption of the County Assembly calendar 2017 be discussed in this House...

*(Question proposed and agreed to)*

**Leader of Majority** (Hon. Mwidani): Mr. Speaker pursuant to Standing Order 25 the Assembly resolves that the calendar 2017 be adopted for the period 17<sup>th</sup> January to 20<sup>th</sup> April 2017 on Tuesday afternoon, Wednesday morning and afternoon and Thursday afternoon and then we should have a recess on 6<sup>th</sup> April 2017 to 28<sup>th</sup> April 2017 and then we come on a period of 2<sup>nd</sup> May to 8<sup>th</sup> June 2017 from there we proceed to Sine die recess from 15<sup>th</sup> June 2017. Thank you, Mr. Speaker.

**Temporary Speaker** (Hon. Mwalimu): Yes Hon Wangudi?

**Hon. Wangudi:** Ahsante Mheshimiwa Spika kwa fursa hii hata mimi niweze kuchangia katika hoja iliyowasilishwa katika Nyumba hii na Kiongozi wa Walio Wengi Bungeni. Mimi ninaunga ratiba hii mkono nikizingatia kwamba tutakuwa na muda mzuri wa kuchanganua maswala ambayo hii Kaunti kabla hatujafika tamati ya msimu huu.

Namna ratiba hii ilivyoorodheshwa hapo katikati kuna muda wa mapumziko ukizingatia ya kwamba huu muda wa mapumziko kuanzia tarehe sita mwezi wa nne hadi tarehe 28 mwezi wa nne ni muda mwafaka zaidi kwa sababu ukizingatia kwamba ile tume ya uchaguzi imeweza kusema ya kwamba kuanzia tarehe 14 mwezi wa nne hadi 26 utakuwa ni msimu wa uchaguzi mdogo basi utakuwa ni muda mzuri Waheshimiwa hawa kuwa mashinani.

Hii nafasi wataweza kuitumia ili nafasi ya kurejea ndani ya Nyumba tuko na mda mfupi wa kumaliza yale makombo yatakuwa yamebaki iliyosalia tuwe tunaangalia maswala ambayo yanaambatana na utungaji wa sheria katika Jumba hili kisha baada ya hapo kila mtu atakuwa amepata mkono wa buriani apumzike salama. Ahsante Mheshimiwa Spika.

**Temporary Speaker** (Hon. Mwalimu): Hon Members as the Speaker I will not put a question to this Motion I would like the Leader of Majority to rectify the dates because I am sure if you look properly the dates period 17<sup>th</sup> January to 20<sup>th</sup> April 2017 and after that we see recess from 6<sup>th</sup> April to 28<sup>th</sup> April.

The Leader should come clear because under Standing Order 25 (2) this thing is supposed to be gazetted and this is a respected House of law and we would not like people to come after not to question our calendar; the issue will stand pending until the Leader rectifies this and tomorrow we will put a question. Thank you. Yes Clerk?

### ADJOURNMENT

Hon Members this House stands adjourned until tomorrow 2:30pm.

The House rose at 3:10pm.