

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT**Wednesday, 13th July, 2016

The House met at 9:22a.m.

*(Deputy Speaker (Hon. Mswabah Rashid) in the Chair)***PRAYERS****Deputy Speaker** (Hon. Mswabah Rashid): Yes Clerk.**STATEMENT**

Yes Hon. Fadhili.

Hon. Mwalimu: Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika mwanzo natoa pongezi kwa wakina mama kwa kuwa wamepata cheo cha Ukurugenzi mkuu katika Bandari ya Mombasa na hiyo ni pongezi kwa wakina mama kwa kupata uongozi huo. Mheshimiwa Spika mimi kusimama nimesimama, nataka Kiongozi wa Walio Wengi aje atuambie katika Bunge hili ni nini haswa sisi kama Kaunti ya Mombasa tunapata kutoka katika ile la Bandari ya Mombasa. Mheshimiwa Spika inasikitisha ikiwa Bandari ile inaenda kutengeza ma shule Kaunti ya Kwale; kwetu Mombasa labda ziko siwezi nikasema hakuna kabisa lakini ningetaka Kiongozi wa Walio Wengi aje mbele ya Bunge hili aelezee ni nini haswa tunapata sisi Kaunti ya Mombasa kutoka Bandari ya Mombasa. Mheshimiwa Spika nakuomba kupitia Kiti chako huyu Kiongozi wa Walio Wengi usimpe mda mrefu, mpe mda mchache ili afanye kazi kwa bidii na haraka atulettee habari hio hapa kupitia mawaziri karibu wote wajulie ni nini ambacho sisi tunapata ama ni nini tunakosa kutoka Bandari ama tufanye nini ili tupate kutoka Bandari, hii ambayo tuko nayo hapa kwetu kwa kaunti yetu. Ahsante Mheshimiwa Spika.

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Ibrahim Kondo.

Hon. Ibrahim Kondo: Ahsante Mheshimiwa Spika. Mheshimiwa Spika mimi ni kuongezea tu maneno yameongewa na Mheshimiwa Fadhili kupitia hoja yake. Kwa hiyo napongeza kabisa kina mama na pili nataka kujua faida ya Bandari hii haswa kwa sisi Mombasa Kaunti, vile vile Mwenyekiti wa Walio Wengi katika Bunge hii Mheshimiwa Hamisi Musa Mwidani ni lazima atakapokwenda kwa mazungumzo yake aweke wazi bayana ya pia masuala yanayohusika na viongozi wetu wa Mombasa. Haswa tukiangalia sisi wakaazi wa Changamwe ambapo tunataka kupewa *access* pia kupitia katika daraja lile kwa sababu msongamano wa magari wakati huu kama vile walivyofanyiwa wakaazi wa Likoni kupitia katika kivuko. Kwa hivyo hio ni moja pia katika changamoto zitakazo wekwa mbele, nakumbuka Mheshimiwa Spika wewe mwenyewe Spika wa Jumba hili pia una matatizo makubwa kupitia katika Bandari ile. Kwa hivyo pia hilo swala liwe na kipao mbele katika Bunge hili. Ahsante Mheshimiwa Spika.

Deputy Speaker (Hon. Mswabah Rashid): Ahsante Mheshimiwa Ibrahim Kondo, Mheshimiwa Kiongozi wa Walio Wengi naona masuala yaliyozungumzwa ni swala nyeti na Jumba hili linataka utufanyie utafiti masuala haya mengine ambayo yamechipuka katika taarifa imesomwa na Mheshimiwa Fadhili. Ni kwanza twataka kujua Bandari inafaidi nini wakaazi wa Mombasa kwa sababu inasemekana kuna shule imejengwa na Bandari ya Mombasa, kwa hivyo twataka kujua uende ukafanye utafiti tuone Bandari inatusaidia sisi na tunakupatia wiki mbili Mheshimiwa Mwidani.

Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker I think it's my honour to take up the task we have discussed, it's just the time, what has been raised today even if am given two weeks it's okay.

Deputy Speaker (Hon. Mswabah Rashid): So two weeks is okay for you to respond. Yes Clerk. The other statement is from Jabess Mdhai. Chief Whip have you seen Mdhai?

Chief Whip (Hon. Ahmed Ebrahim): He is not around.

Deputy Speaker (Hon. Mswabah Rashid): Not around?

Chief Whip (Hon. Ahmed Ebrahim): Mheshimiwa Spika nimejaribu kumtafuta na saa hii sijamuona.

Deputy Speaker (Hon. Mswabah Rashid): Okay next Order?

MOTION

Hon. Leader of Majority.

Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker, I would beg to give a Notice of Motion on rescission of defective resolutions on nomination of Members to Committees...

(Leader of Majority (Hon. Mwidani) moved Notice of Motion)

RESCISSION OF DEFECTIVE RESOLUTIONS ON NOMINATION OF MEMBERS TO COMMITTEES

Mr. Speaker I beg to move a Notice of Motion,

THAT AWARE that the County Assembly had on Thursday, 31st March, 2016 duly approved with amendments a Motion containing a list of Members nominated to Select and Sectoral Committees.

FURTHER AWARE that subsequently on two other occasions the foregoing list was irregularly altered by way of defective Motions which were not in compliance with Standing order 154 (1) and 157.

CONCERNED that these subsequent alterations were done in undue disregard of the procedures and practices of our legislature and have set a bad and dangerous precedent.

I therefore urge the County Assembly to RESOLVE that:

1. Pursuant to Standing Order 42 (2) (a) this County Assembly hereby rescinds its decisions done irregularly to alter the list of nomination of Members to Committees.

2. That necessary modifications and alterations be done to the list of membership to Committees by the Committee on Selection in consultation with ODM. The sole parliamentary party to take care if changes such as those of Leader of Majority and any other changes they may deem necessary;

3. That it is hereby declared that the list of membership to Committees approved through a Motion by this House on Thursday, 31st March 2016 shall, with necessary modifications (as noted in no. 2 above) be the bonafide list unless otherwise procedurally changed later.

Thank you Mr. Speaker and I would like Hon. Hatimy to second the Notice of Motion.

Deputy Speaker (Hon. Mswabah Rashid): Notice of Motion is not supposed to be seconded, this is a Notice of Motion but I can see it has been approved by the House, by the Clerk for it to come here so a Notice of Motion does not need to be seconded maybe you can rise and seek leave to move it now.

(Interruption)

Yes Hon. Meti what is it, before Hon. Mwidani let's see what Hon. Meti wanted to say then Hon. Mary, let's see what you have to talk.

Chief Whip (Hon. Ahmed Ebrahim): Mr. Speaker, I beg this House to make this become a Motion.

Deputy Speaker (Hon. Mswabah Rashid): Hon. Mary what do you have to say?

Hon. (Ms.) Akinyi: Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika kwa mawazo yangu na kuelewa kwangu na kisomo changu pale nimefikia kama Mbunge baadhi ya haya mambo ambayo yameletwa leo kama Mswada huu wa leo ndio baadhi ya vitu ambavyo viko katika yale mambo ambayo yako kortini. Mheshimiwa Spika kwa kuelewa kwangu...

(Interruption)

Deputy Speaker (Hon. Mswabah Rashid): Hon. Hatimy what is it?

Hon. Mohamed Hatimy: Nafikiri Mheshimiwa Spika, Mheshimiwa alietoka kuongea sasa hivi anapotosha Nyumba hii anaposema kwamba mambo haya yako kortini, sijui ana njia yoyote ya kuonyesha mambo haya yako kortini?

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Mary do you have any proof?

Hon. (Ms.) Akinyi: Ile *Notice of Motion* ya kumuondoa Spika, baadhi ya haya mambo yalikuwa katika yale...

(Interruption)

Deputy Speaker (Hon. Mswabah Rashid): No you should produce it if you have it.

Hon. Mwalimu: Point of order!

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Fadhili.

Hon. Mwalimu: Mheshimiwa Spika ahsante kwa kuniruhusu kwa hoja ya nidhamu. Mheshimiwa Spika ni kwanzo uruhusu kama alivyoomba Mheshimiwa Meti na ikiwa Mheshimiwa ana hoja ama tetesi za kuzungumza ni watu wazungumze baada ya kuwa umeturuhusu kuzungumza hii hoja katika Bunge hili. Lakini ikiwa watu wataanza kuchangia kabla hoja haijatolewa idhini Mheshimiwa Spika itakua tunakeuka hoja za nidhamu ambazo tuko nazo katika Bunge letu...

MOTION

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Mwidani.

Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker I take this opportunity again to move that the Motion...

(Leader of Majority (Hon. Mwidani) moved the Motion)

RESCISSION OF DEFECTIVE RESOLUTIONS ON NOMINATION OF MEMBERS TO COMMITTEES)

Mr. Speaker I beg to move a Motion;

THAT AWARE that the County Assembly had on Thursday, 31st March 2016 duly approved with amendments a Motion containing a list of Members nominated to Select and Sectoral Committees.

FURTHER AWARE that subsequently on two other occasions the foregoing list was irregularly altered by way of defective Motions which were not in compliance with Standing Order 154 (1) and 157.

CONCERNED that these subsequent alterations were done in undue disregard of the procedures and practices of our legislature and have set a bad and dangerous precedent;

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2. That necessary modifications and alterations be done to the list of membership to Committees by the Committee on Selection in consultation with ODM, the sole parliamentary party to take care if changes such as those of Leader of Majority and any other changes they may deem necessary;

3. That it is hereby declared that the list of membership to Committees approved through a Motion by this House on Thursday, 31st March, 2016 shall with necessary modifications (as noted in no. 2 above) be the bonafide list unless otherwise procedurally changed later.

Thank you Mr. Speaker i quote number 3 and Members should know the way how number three means; if there is any necessary modifications this is very clear we shall see that those memberships and if somebody maybe if he/she was not taken care of we can easily take care on that. So It should not worry the Assembly that we are going to do such under the table, we are going to do things very openly that's why we have mentioned if there is any modifications it can be done, Thank you Mr. Speaker. I think now let me take this opportunity to have a seconder of this Motion, I think i'll call Hon. Hatimy to second.

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Ahsante Mheshimiwa Spika. Mheshimiwa Spika nimeitikia huu Mswada uliosomwa na Kiongozi wa Walio Wengi Bungeni; chini ya 46 (2) sheria inasema unapopitisha Mswada na ule Mswada umepita kwa wakati wowote kunaweza kuja Mswada chini ya kifungu hiki kuweza ku *review order* iliotoka ili kuuzungumzia tena ule Mswada kuonyesha kuwa ule Mswada uliokuja umekuja kwa njia ya sawa ama haukuja kwa njia sawa. Mheshimiwa Spika nikianza kutaka kuzungumza ndani ya Nyumba hii na sheria za Nyumba hii ziko wazi kabisa, kanuni za Bunge nambari 44 iko wazi kusema kuwa utakapoleta Mswada...

(Interruption)

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Hamisi Mwidani.

Leader of Majority (Hon. Mwidani): I think Mr. Speaker it's good to be in order of the House, Okay I trust my colleague but actually we have to follow the procedures; he was seconding so let's see that when we get the clearance for the debate then we can deal with that...

(Applause)

Hon. Mohamed Hatimy: Mheshimiwa Spika nafikiri niko na haki ya kutoa zile sababu alafu mwisho niseme tumekubali kuunga mkono ama nimekataa, kwa hivyo sheria nafikiri yanikubalia.

Deputy Speaker (Hon. Mswabah Rashid): *(Nodding)* Okay Members, he has seconded, have you seconded?

Hon. Mwalimu: Mr. Speaker Sir Hon. Hatimy has not yet seconded the Motion...

(Laughter)

So he has to second first; give him time for him to lay down his personal whatever he has to lay in the House and second so Mr. Speaker Sir it's upon you to direct this House.

Deputy Speaker (Hon. Mswabah Rashid): Okay I understand.

Hon. Mohamed Hatimy: Nafikiri Mheshimiwa Spika ni haki yangu mimi maana nikisema nazungumza nikisema naunga mkono nitaambiwa nisiongee tena kuwa nishaongea. Kwa hivyo kukimbia jambo hilo Mheshimiwa Spika nataka kutoa sababu gani za kufanya nini kukubali kuunga mkono ama kukataa kuunga mkono Mheshimiwa Spika, kwa hio kama Wanachama wanataka mimi niunge mkono...

(Laughter)

Hon. Mwalimu: Mr. Speaker our Standing Orders allow us to even contribute more than once Mr. Speaker so it is up to Hon. Hatimy to either second or not to second.

Deputy Speaker (Hon. Mswabah Rashid): Okay he has already seconded, he will be given another time to contribute, so Members I propose a question as many as of the opinion that this Motion should be discussed in this House.

(Question put and agreed to)

(Applause)

Yes Hon. Hamisi Musa Mwidani can you tell us why you want this Motion to be passed in this House.

Leader of Majority (Hon. Mwidani): Ahsante Mheshimiwa Spika, nafikiri kuko umuhimu wa kurekebisha hizi Kamati kwa sababu hata ilikua ni changamoto kwa Karani wetu kuweza kukaa chini na kupanga ratiba za mkutano, kwa sababu zilikuwa zinaleta mgonganisho baadhi ya Wenyekiti ambao walikua mara mbili. Unakuta Karani anashindwa amusikize Mwenyekiti gani, kwa hivyo Bwana Spika na haya tukiyaleta sio kama tunalipiza ama nini, na kama nilivyoelezea kwamba mimi kama Kiongozi wa Walio Wengi Bungeni

nitahakikisha kila matakwa ya Mwanachama imeangaliwa kisheria. Kama ni Kamati ya *Sectoral* lazima uwe tatu, lazima ziangaliwe na uwekwe isiwe unatafuta vitu vya kuficha kunyanyasana. Kwa hio Bwana Spika nimeleta hu Mswada kwa sababu ya kuwa Nyumba yetu iwe kwenye ratba nzuri kama ilivyokua kitambo. Hivyo basi ningependelea Wanachama kwamba tuiptishe na pia baadae tutaileta ile orodha yenyewe waione ikiwa kuna kitu chochote kile kama kiongozi utaniambia alafu tunaketi chini tutarekebisha. Kwa hio ningepomba Bunge hili ikiwezekana tupitishie mara moja kusudi tuweze kuwapa Karani wetu kazi rahisi kwenye mikutano. Ahsante Bwana Spika.

Deputy Speaker (Hon. Mswabah Rashid): Mheshimiwa Amur.

Hon. Amur: Ahsante Bwana Spika kitu alichoonzea Mheshimiwa Mwidani sioni sababu ya kwamba tutaleta orodha mpya wakati orodha haziwezi badilishwa kwa mda wa miezi mitano wakati orodha haziwezi kubadilishwa kwa muda wa miezi mitatu ni kuja kuthibitisha orodha hizo ambazo zilipitishwa mbeleni kwamba *those are the same lists with the same Members to be brought so that we can take the way forward* ya kuendelea na Kamati zetu. Lakini tukisema tutakubali mambo mengine itatakiwa tutele Mswada mwingine wa kubadilisha sisi tunachokisema; ni zile zilizopitishwa *before six months, those are the lists that should be in order, the same should be brought and be compiled by the Assembly so that the Chairmen can take their positions and the Committee can work peacefully. Mr. Speaker other than that if it will be the other we change we should only bring the list that was brought before six months for any Committee to change Members the Committee....*

(Interruption)

Hon. Mwalimu: Point of Order!

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Makarani.

Hon. Mwalimu: Mr. Speaker I think the Leader of the Majority is in order to say that necessary modifications...; it is the party that has got the mandate to either dewhip Members on its Committees or to retain Members on its Committees. Mr. Speaker that's what the Leader of the Majority is saying but am sure Mr. Speaker as to what clearly intended, we are intending to retain the decision which was made in this Hon. House that are contrary to our Standing Order that if they will be any communication from the party which in our case is the ODM party we have got no mandate to object. Thank you.

Deputy Speaker (Hon. Mswabah Rashid): Hon. Amur I think Clause Number 3 is open it says that, *"That is hereby declared that the list of membership to Committees approved through a Motion by this House on Thursday 31st March, 2016 shall with necessary modifications..."*. So i understand there's grievances that there are some Members who are not in the three Committees, so these are the modifications which the Leader of the Majority is insisting on, so Hon. Amur Murfad you can continue.

Hon. Amur: Mr. Speaker I was not saying no to modifications or additions of Members; it is allowed by the Standing Orders otherwise the Committee list was there, was not in order we should be using the same list that was passed on 31st March, 2016 and then those additions of the Members that are supposed to be added in the Committees. We are not objecting that the retainment of the Committees should remain as per the list that was passed on 31st March, 2016. Mr. Speaker Sir the additions of Members we are not objecting but again if we had other issues of a Member not attending meetings of the Committee then the

Chair and the Members of that Committee have powers to remove that Member from that Committee. Mr. Speaker Sir as the Standing Orders states....

(Interruption)

Deputy Speaker (Hon. Mswabah Rashid): That is internal communication, at Committee level. Yes Hon. Ndanda.

Hon. Mohamed Ndanda: Thank you Mr. Speaker. Mr. Speaker I have risen up to support this Motion. Mr. Speaker the Motion that was brought the first time when we had a lot of chaos it was contrary to Standing Order 174. Mr. Speaker we are Hon. Members and we are not disputing anything which was brought unless it goes against the constitution and the parliamentary Acts. Hon. Speaker when you look at Standing Order 174 it talks on the procedure on how we can remove a Chairperson or a Vice Chairperson; on this note that's why am saying Hon. Amur who is my desk mate here he should understand that the list brought as a number of the changes of the Chairmen where the procedure was not followed and here, *"The Committee may, a resolution supported by a majority of its Members"*, so it means in this manner when the new Leader of Majority they will be no names of the Chairmen. According to the Standing Order it is very clear that Members of the Committee shall choose their Chairperson, so what am insisting here and which gives us mandate when you go to Standing Order Number 44 it also states that though the Motion brought to the House has to last for six months but if it was unconstitutional and parliamentary Acts was not followed then we have a right to review the Motion...

(Applause)

...So Hon. Members am here to review the Motion; when we go to the Motion number 3 part 3 is very clear, now to anybody with a doubt if the Selection Committee was provided so for you to be there, there's those modifications and i believe since we are one party under one Chairman then consultations are going to be there, the Chief Whip is there, is an ODM, the Leader of Majority is an ODM...I think let us support this Motion Hon. Members with the two Standing Orders that have been mentioned in this House so that i get confidence that this Motion is part and if possible Majority Leader gives us a new list of Committees and on top of that have seen some Members arguing without Standing Orders. It is also proper for us to go to the South Coast Hon. Speaker so that we can master these Standing Orders; when arguing here in the parliament we argue with theStanding Orders where we can support our statements fully so that we do not become afraid of the six months of the whatever if they infringe on the right of the Hon. Member. Thank you Mr. Speaker Sir.

Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika nikiregelelea tena kuzungumza yale maneno niliyoongea ya kusema kuwa Nyumba hii iliweza kupitisha Mswada na Mswada ule ulipita kwa njia ambayo si ya sawa sawa. Nikiangalia Mheshimiwa Spika kanuni za Bunge nambari 44 imeivunja, 46 imeivunja, 50 imeivunja, 54 ambayo hiyo ni ya kusema ni mpigo wa moyo au ndio kiini cha Mswada, kwamba Mswada bila ya kuungwa mkono sio Mswada tumeivunja 154, tumevunja 157, tumevunja 191 tumevunja maana hii Nyumba imekuwa ni kama baraza kufanywa mambo ambayo yalikuwa si ya sawa sawa. Hivyo basi sisi kuregelelea Mheshimiwa Spika ni kuweza kuhakikisha kwamba yale tulioyafanya kimakosa tuyarekebisheni na tuendeleeni mbele; hakuna haja ya watu kuleta maneno ambayo hayatasaidia Nyumba. Mheshimiwa Spika kwa hivyo nasimama mbele ya Wanachama wenzangu kusema kuwa hakuna haja ikiwa mimi na

wewe tunateta unakuja kuingililia Nyumba unakuja kuvunja Kamati ambayo ilikuwa ni kinyume na sheria. Ukiangalia 46 Mheshimiwa Spika ni kuwa Mswada umepita 31st March, 2016 ndani ya miezi miwili Mswada mtu anakuja anavunja ule Mswada bila ya kufanya maombi kama vile sasa Kiongozi wa Walio Wengi Bungeni ameweza kubatili uamuzi wa ule Mswada wenye ulikuwa umepitisha. Kwa hio Mheshimiwa Spika nikisimama na kusema kuwa ilipitishwa tarehe 10 ilikuwa ni Mswada ambao haukuwa na mwenye kuunga mkono, Mswada ambao haukuwa na maswali yote, hii ni kinyume na sheria. Tukiangalia 154 hakuna mtu anayeweza kufanya pekee yake kutengeneza Kamati Mheshimiwa Spika isipokuwa ni mashauriano; 154 iko wazi mashauriano na chama hakuna jambo hili halikufanyika. Mheshimiwa Spika 157 chama ina haki ku *whip* wanachama wake hakuna mwengine yeyote aliyepatiwa uwezo huo; ukiangalia kanuni za Bunge nambari 154 inazungumza maneno hayo hayo. Tukienda katika kanuni ya Bunge nambari 191 Mheshimiwa Spika bado inataja chama vile vile; hivyo basi Mheshimiwa Spika hii ni kwenda kwa njia ambayo ni ya sawa sawa na mimi naomba tukubaliane kwa kauli moja kuwa sisi tuhakikishe kuwa kama mtu yuko wa Kamati tatu awe kwa Kamati tatu na ikiwa tutakubaliana tukubaliane iwe tumeenda kwa njia ya sawa sawah. Asante sana Mheshimiwa Spika.

Deputy Speaker (Hon. Mswabah Rashid): Members I can see the matter has been debated and there's nothing else so I have to go back to the Majority Leader to reply to the Motion.

Leader of Majority (Hon. Mwidani): Thank you Mr. Speaker for giving me this opportunity to thank all the Members who contributed to this Motion and now it is just the party to make a decision. Thank you Mr. Speaker.

Hon. Mohamed Hatimy: Mheshimiwa Spika naomba kuiarifu Nyumba hii kuwa kanuni ya Bunge nambari 156 iko wazi, chama itakapoleta majina hakuna mtu yeyote atakayeweza kusema huyu awemo huyu hasiwemo; ni aidha mkubali listi yote ama mukatae listi yote, kanuni ya Bunge nambari 156 iko wazi.

Deputy Speaker (Hon. Mswabah Rashid): Hon. Members i have no other option but to put a question to the Motion. Members as many as are of the opinion that this Motion should be passed as it is.

(Question put and agreed to)

(Applause)

Yes Clerk.

ADJOURNMENT

Yes Hon. Members this House stands adjourned until today at 2:30p.m.

The House rose at 10:20a.m.