

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT**

Wednesday, 14th September, 2016

The House met at 2.40pm.

(The Temporary Speaker Hon. (Mrs Nyamvula) in the Chair)

PRAYERS

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. have you seats, Clerk.

PETITION

Hon. Members we have received a petition from the inter-religious Council of Kenya; petition for enacting of the Mombasa Public Participation.

The petition was received on September 2016, and I will read;

(The Temporary Speaker Hon. (Mrs.) Nyamvula read)

"To the County Assembly of Mombasa, we the undersigned and the humble petitioners of Mombasa County under the umbrella of Inter Religious Council of Kenya (IRCK) draw the attention of the County Assembly to the following: Public Participation is both a key promise and provision of the constitution of Kenya.

It is instilled in the national values and principles of governance stipulated in Article 10.

The Constitution, Article 174c provides that one object of devolution is: to give powers of self –governance to the people and enhance their participation in the exercise of the powers of the state and in making decisions affecting them.

Section 15 and 88 of the County Government states that citizens have a right to petition the County Assembly to consider any matter within its authority including enacting, amending or repealing any of its legislation".

(End of petition)

This petition has signatures; it has been signed, received and so I commit in accordance to Standing Order 202 (I) commit this petition to Justice and Legal Affairs Committee, is the Chair person there? Any Member of the Justice and Legal Committee?

(Hon. Onje rose)

Hon. Onje please get this to the Committee in the same breath, I take this opportunity again Hon. Members to remind Hon. Saad referring to a petition from the residents of Kaloleni that we are still waiting for a reply to that, petitions normally have 60 days thank you. Clerk.

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MOTION

Thank you, Hon. Mohamed Hatimy

Hon. Mohamed Hatimy: Thank you Madam Speaker thank you for giving me this opportunity to move the Motion;

"THAT AWARE that the Kenya Constitution 2010 which is the supreme law in matters of governance and administration vide Article 185 vests the legislative and oversight authority in a County to the County Assembly.

Madam Speaker FURTHER AWARE that the County executive vide Article 183(3) of the same Constitution compels the County Executive Committee to provide the County Assembly with full and regular reports on matters related to the County.

Madam Speaker CONCERNED THAT to date the foregoing constitutional requirements has not been constantly complied, I therefore urge Assembly Madam Speaker to resolve that;

County Government Departments and the County Assembly Service Board from now henceforth to submit regular quarterly reports on their operations Madam Speaker".

(Hon. Mohamed Hatimy ended Motion)

Thank you.

The Temporary Speaker Hon. (Mrs Nyamvula): Yes Hon. Fadhili.

Hon. Mwalimu: I second.

The Temporary Speaker Hon. (Mrs Nyamvula): Thank you, I now put a question that the Motion submitted by Hon. Mohamed Hatimy of quarterly reports by County government departments be discussed and deliberated in this House.

Hon. Hatimy please.

Hon. Mohamed Hatimy: Ahsante Bi Spika nasimama mbele ya Nyumba hii kuhimiza wenzangu tukubaliane juu ya swala hili kupata ripoti kutoka kwa *Executive Members* kwani mambo mengi Bi Spika yanazungumzwa yanasemwa lakini sisi ndani ya Nyumba hii hatuyapati.

Kwa hivyo nataka tu...hawa *Executive Members* tufuate Katiba kama vile inavyoeleza kwenye *Article 183 (3)* kusudi ili waje wajieleze; kila kitengo ije ijieleze hapa kwa muda siku hizi za nyuma zilizopita kujua wamefanya nini, maendeleo gani waliofanya, shida walizo nazo na ... siku za usioni wana mambo gani ya kuweza kufanyia Kaunti hii.

Kwa hayo Bi. Spika naomba Jumba hili tuweze kulizungumza jambo hili ili tukubaliane tuweze kuwaleta hapa waje watueleze, ahsante Bi Spika.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Opeya.

Hon. Opeya: Thank you, Mr. Speaker, sorry Madam Speaker. I also support the Motion that the Finance Chairman brought, I think since we were elected we have not seen reports while these reports are so important to us in stock taking and knowing what is going on.

So I think that when we receive this quarterly reports we will be in a better position to go and explain to the voters who elected us what is going on, what the County is doing and what the government is trying to do.

So I would urge my colleagues to also support this Motion, thank you Madam Speaker.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Fadhili.

Hon. Mwalimu: Ahsante Bi Spika, hoja iliyo mbele yetu Bi Spika ni hoja nzuri sana na Bi Spika ukiangalia hoja yenyewe jinsi ilivyoletwa Mheshimiwa Spika imetaja kitabu chetu ama Katiba yetu Bi Spika ambayo ndio sheria kuu katika nchi yetu.

Mheshimiwa Spika inaonyesha wazi kuwa Mawaziri wetu wa Kaunti yetu ya Mombasa wamekuwa wakikiuka Katiba.

Mheshimiwa Spika kifungu nambari 183 (3) wazi kinaelezea Mheshimiwa Spika kuwa ni lazima haikusema kuwa watafanya kwa hiari yao, lakini imeonyesha kuwa ni lazima kwa Mawaziri kuleta ripoti ndani ya Bunge hili.

Tena Mheshimiwa Spika ripoti zilizo kamili na ripoti za kufuatana Mheshimiwa Spika, haikusema kama alivyozungumza ndugu yangu kuwa zina makadirio kwa mda kama alivyosema kwa kimombo *quarterly reports*.

Mheshimiwa Spika, imesema ni ripoti kamili, imesema ni ripoti kamili na ripoti zenye kufuatana kwa shughuli zinazoendelea ndani ya Kaunti yetu tunaona shughuli nyingi zinaendelea bila ya Assembli hii kuletewa ripoti kutoka kwa Mawaziri wale.

Mheshimiwa Spika mimi nashukuru kwa aliyeleta hoja hii Mheshimiwa Spika, ni haki Mawaziri wale waje walete ripoti zile na waje waelezee kuhusu matukio yale ambayo yanaendelea katika serikali yetu Mheshimiwa Spika.

Mheshimiwa Spika na kama sisi tulivyo waheshimiwa wa Kaunti tulivyo tia mkataba tukatia sahihi zetu katika *code of conduct* nina imani hata mawaziri wale walifanya kama vile sisi tulivyofanya na ikiwa watakuwa wanakiuka katiba mimi nina imani watakuwa wanakosea

Kaunti, wanakosea Kenya, wanakosea wananchi wetu ambao ndio waliopewa kipao mbele katika katiba yetu.

Mheshimiwa Spika ni katika kile kikundi ambacho tumewapa nguvu sana kwa wananchi, sasa mimi naomba Waheshimiwa wenzangu tukubaliane na hoja hii na vile vile lisichukuliwe kama tu mzaha lifanywe ni jambo ambalo wataweza kujulishwa waweze kujulishwa yale ambayo yamejiri ni vipi.

Sisi tunataka kwa sababu shughuli tunazona ni nyingi zinazoendelea na ripoti kama zile hazifiki hapa.

Kwa hivyo nawaomba Waheshimiwa wenzangu tushirikiane kwa pamoja tukubaliane na hoja hii Mheshimiwa Spika na hatua ichukuliwe haraka iwezekanavyo. Ahsante Mheshimiwa Spika.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Onje.

Hon. Onje: Ahsante sana Bi Spika. Bi. Spika mimi pia naungana na wenzangu nikiunga hoja hii ambayo imeletwa na Mheshimiwa Hatimy kuwa Waziri ni sharti waitwe waje hapa ili waweze kutupatia sisi ripoti kulingana na jinsi vile wanavyofanya kazi.

Bi Spika sisi kazi yetu kama Wanachama wa Bunge la Kaunti ni kuangalia jinsi vile pesa ya wananchi inatumika kule kwa *executive* na tukikaa bila kuangalia hawa *executive* itakuwa ni kama sisi tumesahau kazi yetu.

Bi. Spika nikisema hivyo nikiongezea hawa Mawaziri wengine wamejisahau wanakaa kwenye hizo ofisi ni kama mtu amekaa nyumbani kwake wengine wamejisahau hata majukumu, hivyo basi tupate nafasi ya kuwaleta hapa wataamka na watachanuka kiakili na watafanya kazi kulingana na vile Katiba inataka.

Nikitaka kueleza zaidi Bi Spika mimi jana kidogo nilikuwa na shida, shida yangu ya kwamba nilikuwa na gari nikaegisha pale Blue Room pahali pazuri japokuwa tairi za mbele kidogo zilikuwa zinakaribiana na alama ya manjano.

Bi Spika nikatoka kuingia ndani kuna kitu nilikuwa nanunua kwa duka pale kurudi napata gari yangu imepigwa ile *clamp*; wakaniachia hapo *sticker* nyengine nipige waweze kunisaidia.

Madam Spika nikafuata sheria nikawapigia Bi Spika nikaambiwa siku hizi ni Waziri Tawfiq Balala yeye ndio anaamuru wale wafanyi kazi hata ukiwapigia hata kama wewe ni Mheshimiwa yeye hataki kujua ni wewe umpigie Waziri akikubali ndio sasa gari yako watakuja wafungue ile *clamp*.

Basi Bi Spika mimi nikaendelea kuongea nao vizuri nikawanyenyekea vizuri sana nikampigia Tawfiq alikataa kuchukua simu, zilifika karibia *missed calls* sita baadae nikasema

sasa meseji inaweza hii kazi, nikamtumia ujumbe mfupi hakujibu mwishowe nikaona Bi Spika kwa serikali hakuna serikali ndogo wala kubwa mimi pia ni serikali nilichaguliwa na wananchi.

Bi Spika ilibidi nikakumbuka kazi yangu ya useremala nikatoa vifaa kwa gari manake natembea navyo niling'oa vizuri nikaweka ndani ya buti natembea nao mpaka saa hii gari natembea nayo vizuri nashukuru lakini ajabu Bi Spika hawajanipigia simu kuniambia pole ama hata kuniuliza kuhusu *clamp* yao.

Kwa hiyo kazi huwa haiendi hivyo Bi Spika, ikiwa mimi ni kiongozi nimechaguliwa na wananchi na mimi nakosa msaada, je yule mwananchi ambaye amenipigia kura kule mashinani nitamsaidia namna gani?

Bi Spika unajua jinsi tunatafuta kura kule chini na kuongea na wananchi ni shida, ukipita hapa unafaa heshima yako upewe na sisi sio kila siku tunapiga simu eti tufunguliwe magari.

Mimi kwa mwezi hata miezi mitano inaweza kupita bila kupiga simu kufunguliwa gari, kama gari yangu imepigwa *clamp* hawajasikia kwani tunaenda mbinguni ama tunaenda Kwale ama Kilifi ndio tupate msaada wewe kama nyumba ni yenu hapo hapo kwenye nyumbani yenu ndio utakulia huwezi kulia kwenye nyumba nyengine.

Kwa hiyo msaada napata hapa na kila kitu napata hapa manake ninafanya hapa sio Waziri hataki kusikia mambo yetu ni heri wawe hapa watuambie kinaga ubaga kama hawataki kusikia wajue kwamba sisi ndio *supervisor* wao na tufute mtu kazi ndio wajue kweli sisi tunataka kazi ifanyike sio mambo ya kutukanyaga mimi naunga mkono Bi. Spika. Ahsante sana Bi Spika.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Wangudi.

Hon. Wangudi: Ahsante sana Mheshimiwa Bi Spika kwa fursa hii na mimi niweze kuchangia mswada ambao umeletwa ndani ya Nyumba hii na Mwenyekiti wa Fedha Mheshimiwa Hatimy.

Mheshimiwa Spika mimi ninaweza kusema kwamba ninaunga mswada huu mkono mia fil mia; ni mswada ambao umekuja kwenye Jumba hili kwa wakati unaostahili, wakati mwafaka, wakati ambao hawa Waheshimiwa walioko kwenye Jumba hili na wale walioko nje na wale walioko kwenye tofauti tofauti ambazo wameweza kuchaguliwa sasa wameanza kupasha misuli moto kuwa tayari kwa neno hilo lililokuja.

Mheshimiwa Spika hizi ripoti ambazo tunaziitisha ndani ya Jumba hili siku ya leo ndio silaha yetu, ndio silaha ambayo watatoka nayo kwenda katika mapambano yetu bila kupata ufahamu wa mswada ambao tunaupitisha.

Hivi sasa kule nje tutaaulizwa swali tutakuwa na uwezo wa kujibu, tutatoka kule nje Bi. Spika tutakuwa tumejiandaa kwenda kufanya mawasiliano kwa mazungumzo na wale ambao unatarajia wakuunge mkono ama utakosa jambo la kuambia Bi Spika.

Ni wakati mwafaka hawa ambao wanahusika na utekelezaji kwa kazi katika Kaunti yetu waweze kutupa hizi ripoti, hizi ripoti watupe kuanzia pale walipoanzia mpaka pale tumefika hivi sasa na yale mipango ambayo yako katika serikali hii.

Bi Spika kuna shughuli ambazo zimekubalika mara nyengine bila hata mmoja wa Jumba hili kupata ufahamu iwapo kazi itafanyika; Waheshimiwa hawana ufahamu ripoti hatuzipati tutakuwa tuko nyuma.

Kwa hivyo tunaomba ripoti hizi zije namna mswada huu ulivyoagiza zije ripoti ambazo zimekamilika.

Bi Spika tungeomba tufahamishwe hata kama kuna miradi pia imefanywa na serikali ya Kimataifa, zimefanywa na mashirika ya kibinafsi, mashirika yasiyo ya kiserikali tuweze kujua kwa sababu ni miradi ambayo imefanywa na sisi tuko katika uongozi na ilhali wananchi wanataka maendeleo tujue kila mradi umetengenezwa na shilingi ngapi?

Wakati huu ambao sisi tumekuwa katika uongozi kwa sababu hakuna mradi ambao unaweza kutolewa bila ya kupitia kwa kitengo kile husika Bi Spika.

Masuala haya yote wanaomba tunayahitaji wakati huu ambao mimi naregelea kusema kwamba wale ambao wamechaguliwa wamepasha misuli moto ndio msemu wangu Mheshimiwa Spika. Ahsante Bi Spika.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Ogalo.

Hon. Ogalo: Ahsante sana Mheshimiwa Spika, Bi. Spika nimeunga hoja hii mkono mia kwa mia kama wodi ya Timbwani kuna vitu vilikuwa vimepitishwa kwa bajeti ambayo ninajua lakini haijatumika kule.

Kama watakuja hapa watakuwa na ushahidi hapa kwa nukuu za *Hansard* kwamba niliuliza hiyo kitu na haijafanyika kama kuna kisima ilikuwa ichimbwe pale Timbwani bajeti ya miaka minnee 2014/2015 sijaona.

Kuna mambo ya barabara pia ilikuwa imewekwa pesa yake sijajua ni lini itaanza na wananchi kule ukipatana nao njiani wanasema tengeneza barabara lakini sijui nitamwambia ni lini itaanza kutengenezwa, hiyo pesa iliwekwa tayari kwa bajeti.

Mheshimiwa Spika naunga mkono hii hoja na mtu *executive* ambaye hatakuja, Waziri ambaye hatakuja hapa naomba tuwachiwe .

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Mary Akinyi?

Hon. (Ms.) Akinyi: Ahsante Mheshimiwa Spika mimi pia nimesimama hapa kuunga jambo hili mkono ya kuwa Mawaziri waitwe waje watueleze kwa sababu hata hivi tunavyoongea Mawaziri wamepanga taratibu ya kwenda maeneo Bunge kila mwezi na wanapoenda maeneo Bunge wanaenda kutangamana na wananchi.

Ni vyema wanapoenda kutangamana na wananchi kuhusu yale maendeleo ambayo yako Kaunti yetu imefanya na yale maendeleo ambayo Kaunti inataka kufanya Mheshimiwa Spika wakiwa wamekuja hapa tuka *interact* nao pia wao tukawauliza maswali ambayo yako...

The Temporary Speaker Hon. (Mrs Nyamvula): Yes Hon. Mwabashiri what is it?

Hon. Mwabashiri: Ahsante Mheshimiwa Spika naona hapa tunakanganyana mswada ambao uko mbele yetu unazungumza kuhusu kulete *quarterly reports* lakini naona Waheshimiwa wengi wakisimama wanasema Waziri aletwe hapa.

Sasa sijui huu mswada ulioletwa na Mheshimiwa Hatimy tunazungumza Mawaziri waje hapa ama ni ripoti zinazoletwa hapa si wao wenyewe kuja hapa lakini wanaochangia hususan Mheshimiwa Mary naona anachangia waje hapa.

Hon. (Ms.) Akinyi: Ahsante Bi. Spika hiyo *quarterly report* haitatembea kwa maguu ikiwa inakuja hapa ni wao wenyewe wataleta hiyo *quarterly report*.

Mheshimiwa Spika nikiendelea kuelezea kuwa kwa vile kuna mpango ambao wanaenda ku *interact* na wananchi kule katika maeneo Bunge yote sita, hivyo Mheshimiwa Spika ni vyema sisi pia tuweze kujua.

Hii ni kwa sababu watakapokuwa wakileta *quarterly reports*; watakapo kuja wakiileta ama watakapo leta hizi *quarterly reports* ndiposa tutajua watafanya nini katika hiyo robo mwaka wamefanya matendo gani ili hata wanapoenda ku *interact* na wananchi tunajua pia sisi ni yapi yanaendelea. Ahsante Bwana Spika.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Zainab Mumba?

Hon. (Mrs.) Zainab Mumba: Pia mimi nasimama kuunga mkono mswada huu, hata namstahi Mheshimiwa Hatimy kwa kuleta huu mswada kwa wakati unaofaa Bi Spika.

Mimi nataka kuchangia kwa kusema ya kwamba ni kweli Mawaziri wetu wengi sana, mimi nitasema wamezembea kwa kazi yao.

Kwa sababu mimi mwenyewe nikiwa Mwenyekiti wa Mazingira pamoja na maji hiyo ripoti niliipata mara moja toka niingie Bunge hili na ni kitu cha kusikitisha sana na wakati wa kuleta

ripoti katika Kamati Bi Spika tafadhali walete na matumizi vile walivyotumia pesa hatutaki kuletewa kitabu kizima kwa maneno hayajulikani mle ndani.

Ni muhimu sana walete na matatizo ya kwamba wametumia pesa kadha katika mambo kadha.

Kwa hayo machache Bi Spika naunga mkono mswada huu mia kwa mia. Ahsante sana.

The Temporary Speaker Hon. (Mrs Nyamvula): Hon. Saad?

Hon. Faraj: Ahsante sana Mheshimiwa Spika kwa fursa hii; Bi Spika kwanza kabisa nimesimama kuunga mkono mswada ambao umeletwa na Mheshimiwa Mohamed Hatimy.

Sababu kubwa imenifanya niunge mkono mswada huu ni kwa sababu ya kuwa ndugu zetu wamechaguliwa ule upande mwingine wanakuwa hawafahamu majukumu ambayo kwamba wamepatiwa katika Katiba.

Ukiangalia *Article* 183 kifungu cha tatu kimeonyesha majukumu ya *Executive Members* Bi Spika na ikiwa ni mojawapo ya majukumu wamepatiwa wao kumaanisha ikiwa lile jambo hawawezi kulifanya kumaanisha hawafanyi majukumu yao kulingana na Katiba.

Ripoti ni lazima ziwe zinafika, mfumo ni lazima unajulikana, Kamati zinakaa mara nyingine hazina mada ya kuzungumza, uwepo wa Kamati unaangalia ni ripoti gani zimekuja ili kuweza kuzijadili ripoti.

Zile ndio sisi kama Wawakilishi na wale wanaangalia kama mali ya umma isiende kwa njia za makosa tunapata fursa ya kuweza kudadisi, kujadili na kuchunguza masuala kama yale Mheshimiwa Spika.

Ni lazima swala kama hili la ripoti liwe litapitishwa katika Bunge hili moja kwa moja na liweze kufanyika kwa haraka sana kwa sababu tumechelewa huu ni mwaka wa nne ndio jambo kama hili tumeweza kulipitisha.

Ninaamini kwamba kila mmoja angekuwa anajitahidi na Kamati yake kuhakikisha kuwa ripoti imekuja lakini imekuwa ni matatizo upande ule mwengine.

Kwa hivyo huu mswada ni mswada wa nguvu; ni mswada ambao kwamba ni wa haki na hatutaki kuchukua mtu kwa ubaya wowote kwa kuwa majukumu yetu ni tupate ripoti na kukagua ripoti hizi ili tuweze kutekeleza majukumu yetu kwa mwananchi. Ahsante.

The Temporary Speaker Hon. (Mrs Nyamvula): Thank you Hon. Members if I can just take note of this is that one of our functions is to oversight, and this can only be done if you have a program.

The other issue which I can also comment and I am wondering if Hon. Hatimy having seen the Notice of Motion of this Motion; are you happy with that because Hon. Mwabashiri raised a very important issue on whether we are asking because of the way Members were debating whether it was report or the House also wanted the Executive CEC's to appear.

So are you happy with that because having seen the Motion the way it is, having seen the Notice of the Motion.

Hon. Mohamed Hatimy: Thank you Madam Speaker, I think Mwabashiri is right and even Mheshimiwa Mary is right we want them to come and give us a report, to come before us and give us a report when we say we want the report it is them, for them to give us not the Committee.

The Temporary Speaker Hon. (Mrs Nyamvula): Thank you for that clarification. Seeing the Notice was asking for Members of the CEC thank you for that clarification.

Hon. Members allow to put a question that the Motion of County Executive to appear in the Whole House?

(Question put and agreed to)

....I now commit, ask the Implementation Committee and I am seeing the Chairman here to ensure that this Motion is tracked very fast as the Members have requested .Thank you. Clerk?

MOTION

Hon. Enock Mwadziwe, Committee Members who are aware of this Motion?

(Silence)

Clerk? Hon. Mwadziwe is not here so let us proceed.

ADJOURNMENT

This House stands adjourned until tomorrow 15th Thursday September, 2016 at 2.30pm.

The House rose at 3.13pm.