

COUNTY ASSEMBLY OF MOMBASA

OFFICIAL REPORT

Tuesday, 26th November, 2019 The House met at 3:22p.m.

(The Speaker (Hon. Aharub Ebrahim Khatri) in the Chair)

PRAYERS

The Speaker (Hon. Khatri): Hon. Members you may be seated. Yes Clerk.

STATEMENTS

REQUEST FOR STATEMENT BY HON. MWALIMU MGWISHO, MCA SHIKA ADABU ON WHEN SHIKA ADABU HEALTH CENTRE WILL BE OFFICIALLY OPENED

Yes Hon. Mwalimu Hamadi Mgwisho, please request for your Statement.

Hon. Mwalimu Mgwisho: Thank you Mr. Speaker. Mr. Speaker Sir, i seek to know from the Chairperson, Committee on Health on when Shika Adabu Health Center in Shika Adabu Ward will be opened bearing in mind that the residents have to walk for some kilometers in search for a health centre yet the above mentioned hospital is done in terms of construction. Thank you Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Mwalimu. Yes Chairperson Committee on Health? Vice Chair Hon. Fatuma Mote?

Hon. Fatma Swaleh: Ahsante sana Mheshimiwa Spika. Ningependa kumfahamisha Mheshimiwa mwenzangu ya kwamba aweze kutupatia muda kulingana na hivi sasa kama anavyojua kwamba Kaunti hivi sasa haina fedha, kwa hivyo ningependa aweze kutupatia muda kisha baadae tutaleta jibu. Ahsante sana.

The Speaker (Hon. Khatri): Yes Hon. Charles Kitula.

The Chief Whip (Hon. Kitula): Mheshimiwa Mwenyekiti nafikiri Naibu Mwenyekiti wa Kamati ya Fedha labda hajasoma Taarifa wala haelewi anachoongea katika Bunge hili Mheshimiwa Mwenyekiti. Mheshimiwa Mwalimu Hamadi amesema jengo liko tayari alafu yeye ana nguvu gani kusema Kamati haina pesa wakati hakuna *circular* yoyote imetoka katika Wizara yetu kusema kuwa Kaunti haina pesa.

Kwa hivyo tafadhali asipotoshe Bunge hili kuongea maneno ambayo hakuna barua imekuja katika Bunge hili ama *Memo* yoyote kutoka County Treasury kusema kwamba Kaunti haina pesa, jengo liko tayari, swali lililoulizwa ni kwamba, ni lini hospitali itafunguliwa? Basi!

The Speaker (Hon. Khatri): Yes Hon. Fatma.

Hon. Fatma Swaleh: Ahsante sana Mheshimiwa Spika. Sijapoteza Jumba hili Mheshimiwa Spika; katika utaratibu hospitali kufunguliwa ni lazima kuwe na vifaa na iwe na madawa, si mahali pa kuchezea kamari pale, ni mahali pa kuhudumia wananchi. Kwa hivyo Mheshimiwa Spika sijapoteza, sijapotosha Bunge hili hiyo nataka Mheshimiwa Kitula kwanza afahamu na pili nasema watupatie muda kwanza alafu watapata jibu muafaka. Ahsante sana Mheshimiwa Spika.

The Speaker (Hon Khatri): Thank you Hon. Fatma. Yes Hon. Mwalimu.

Hon. Mwalimu Mgwisho: Ahsante sana Mheshimiwa Spika, kitu ambacho ningeomba kujua, amesema tu apatiwe muda lakini nataka kujua kwa hiyo Kamati ama kwa huyo Naibu Mwenye Kiti ni muda gani ambao ataka yeye apatiwe.

The Speaker (Hon. Khatri): Mheshimiwa Mwalimu labda hilo swala lako, hiyo hospitali ishajengwa, labda uulize *in more details*.

Hon. Mwalimu Mgwisho: Mheshimiwa Spika hospitali imekwisha miaka 15 iliyopita mpaka sasa hivi bado haijafunguliwa.

The Speaker (Hon. Khatri): Yes Hon. Kibwana Swaleh, Chairman is it true that the hospital...

Hon. Kibwana Swaleh: Thank you Hon. Speaker. Hon. Speaker I wish to stand with my Vice Chair supporting her response on the issue. Hon. Speaker I think my colleague, a friend of mine is eager to see the facility being opened as soon as possible but Hon. Speaker I want to inform this Honourable House that the facility is among the facilities that will be opened by the His Excellency the Governor.

We started with Chaani which was opened then we wanted to open Vikwatani but because of some logistics it did not happen so I think giving us more time will give the right position Hon. Speaker because ours as a Committee is to oversight and seeking correct information. So rather than misleading this Honourable House by giving a date that maybe in future when he asks again we will not be able to open it...,

So I think the right thing is that you give us more time and he is lucky because otherwise if you open the facility before... I think nobody could have taken that advantage because the facility could have been opened during Hon. Madundo's time but because we want to uplift to be a Level Three facility Hon. Speaker not only a Health Centre but a Level Three facility so I ask my colleague to be patient enough and he will be the Master of Ceremony during that opening of that facility. Thank you Hon. Speaker.

(Applause)

The Speaker (Hon. Khatri): Thank you Hon. Kibwana. So we give you, I think we are going on recess next week so most likely when we come back from the recess during the first week you will have the answer with you, right?

Hon. Kibwana Swaleh: Thank you Mr. Speaker I think that is the right position.

The Speaker (Hon. Khatri): So Clerks, the first week. Thank you Hon. Kibwana. Yes Clerk, next order?

MOTION

Yes Hon. Majority Leader, Hamisi Musa Mwidani?

The Leader of Majority (Hon. Mwidani): Bwana Spika kwa heshima yako na kwa heshima ya Bunge ningependa kuuondoa huu Mswada kwa sababu kuna mawasiliano ambayo nayangojea na mpaka sasa hayajafika. Kwa hivyo Bwana Spika itakuwa ni makosa tuahirishe vikao bila ya sababu na sababu ilikuwa ni mawasiliano tupate rasmi mpaka sasa hatujapata. Kwa hivyo ningependa ku *defer* hii *Motion* kwa siku ya leo. Ahsante Bwana Spika.

(Applause)

The Speaker (Hon. Khatri): Labda ufafanue ni mawasiliano kutoka? Ni ya nini mawasiliano?

The Leader of Majority (Hon. Mwidani): Bwana Spika kuna taarifa ambayo inatakikana Wanachama wawe wataenda Nairobi kwa BBI *launch* kesho lakini taarifa rasmi hatujapata kwa sababu hili ni Bunge hatuwezi kupelekwa na magazeti, hatuwezi kupelekwa na porojo za mitaani. Bwana Spika nilikuwa nangoja taarifa kwa maandishi ambayo kesho naweza iweka kama ushahidi, kwa hivyo Bwana Spika vile hatujapata taarifa kwa maandishi ndio nimesema wacha tuendelee na Bunge letu kesho.

The Speaker (Hon. Khatri): Thank you Hon. Hamisi Musa. Yes Hon. Kibwana Swaleh?

Hon. Kibwana Swaleh: Thank you Hon. Speaker. Hon. Speaker I think that is a Motion, it is us Members who are going to decide whether we are going to adjourn or not so the best thing for him, the Leader of Majority it is to bring that Motion and let the Members decide. Maybe we have our own way of going out on the issue so I think let us debate it and agree if we decide to go we will decide Hon. Speaker and this is my position.

The Speaker (Hon. Khatri): Yes thank you Hon. Kibwana. Yes Hon. Shebe Athman?

Hon. Shebe Athuman: Ahsante sana Mheshimiwa Mwenyekiti. Mheshimiwa Mwenyekiti Kiongozi wa Wengi Bungeni pindi alipokuja na hoja hii ni maana alikuwa tayari ashapata maelezo kamili na habari. Kwa hivyo mimi namshangaa yeye kutangulia kusema kuwa mpaka hivi sasa kuwa hajapata kuwa safari ipo ama haipo, aidha labda katika muktadha wa kutojielewa Mheshimiwa Mwenyekiti ama namna gani.

Maadam kuwa hoja hii Mheshimiwa Kiongozi wa Wengi ashaileta katika Bunge na hili ni Bunge, Bunge la sheria kwa hivyo mimi ningependelea hoja iweze kuendelea aidha watu watakwenda ama hawatakwenda manake naona tayari ishaingia tusiwe tukawa tumia pia wino na karatasi kimakosa. Kwa hivyo naomba chini ya himaya yako heshima ilikuwa ni utaratibu utumie kupitia Bunge lako Mheshimiwa Mwenyekiti aidha taarifa ilikuwa ije rasmi kupitia kwa Karani wa Bunge na Spika lakini leo hii taarifa sawa imeingia kwa Kiongozi wa Wengi lakini hakuna *confirmation* kuwa hii safari haipo. Kwa hivyo sisi twajua safari ipo...

(Laughter)

Kwa hivyo hivi sasa ni muhimu hoja iendelee Mheshimiwa Mwenyekiti ndio tuweze kujua kwa hivyo Bunge hili litaweza kupitisha ikiwa safari hakuna Mheshimiwa. Ahsante.

The Speaker (Hon. Khatri): Thank you Hon. Shebe. Yes Hon. Ibrahim?

Hon. Omondi: Mr. Speaker Sir it is indeed very sad to wake up for such... I can say a dark day that is how I can describe it. Mr. Speaker Sir this one is a Motion that has already been put in the Order paper and it is very sad to realize that the people who are supposed to communicate actually have misled this particular House. This is because am sure that before this Motion was put on this Paper there was communication and then the same people have turned the information upside down and Mombasa County is a very big stakeholder when it comes to matters concerned with that of making of the law and so on and so forth. And this is a very important thing that Mombasa County should not be left out Mr. Speaker Sir, being that our Governor is the Deputy Leader of the largest party in Africa I think Mombasa County would have been given first priority to be in that summit. Mr. Speaker Sir to me I can just say that it is a sad day and it has happened like this Mr. Speaker Sir, indeed it is sad. Thank you Mr. Speaker Sir.

The Speaker (Hon. Khatri): Thank you Hon. Ibrahim. Yes Hon. Nyiro?

Hon. Nyiro: Thank you Mr. Speaker. Mr. Speaker indeed I want to stand with the Leader of Majority; one because he is the author of the Motion and it is not the first time that we are seeing withdrawal of a Motion. Any author of the Motion can decide to withdraw it anytime he feels that it has not have the threshold of going through this House. Mr. Speaker I can see Members have already prepared for something that they have not been maybe communicated to, so let us go by the Leader of Majority tomorrow we are having a sitting so that we can serve the people of Mombasa and if there was arrangement for us to travel then the Leader of Majority should have communicated like that. So if the Leader of Majority has said that there is no communication for us to go to Nairobi there must be an official communication even from the Governor himself, so if there is no information from the Governor or from Nairobi, how do we travel to Nairobi? Who is inviting you to Nairobi? So we should be here serving the people of Mombasa because we have not received an official communication to go to Nairobi and the logistics are not there and the Leader of Majority is right Mr. Speaker.

(Applause)

The Speaker (Hon. Khatri): Yes Hon. Charles Kitula?

The Chief Whip (Hon. Kitula): Mimi ni taarifa tu manake naona kuna kutoelewana baina ya sisi viongozi hasa ingekuwa bora Kiongozi wa Wengi aweze kufahamisha Bunge hili ni kwa nini Mswada huu umeingia katika *Order paper* bila ya kupata *confirmation*? Ahsante.

The Speaker (Hon. Khatri): Yes Hon. Hamisi Musa?

The Leader of Majority (Hon. Mwidani): Bwana Spika ningesema ni makosa Jumba hili tulipeleke kama *jungle House*! Ni kweli nimesema *Procedural Motion* iwekwe nikingojea mawasiliano na nafikiri tulikuwa na *House Business* jana ndio tukakubaliana hivyo lakini nisingependa kupotosha hili Bunge...

(Interruption)

The Speaker (Hon. Khatri): But maybe if I can correct you on that Hon. Majority Leader I do not think this Motion needs to pass through the House Business and for your information Members it is any Member it is not Majority Leader. So if you look at Standing Order 28 it is very clear, it does not say the Majority Leader; any Member, "A Member at any time for reason stated seeks leave to move that this County Assembly do now adjourn or adjournment on definite matter of urgent County importance". So Hon. Members it is clear that any Member can rise for the adjournment but you have to have a reason so that is why I think the Hon. Majority Leader is saying that it is not confirmed to him those reasons may be that is why he said he cannot move that Motion but if any Member wants to move that Motion, you can raise and move the Motion. There is no problem and we can continue, the Members will want the adjournment to go on, it will go on. So yes I think... Hon. Thoya?

Hon. Thoya: Thank you Mr. Speaker. I think you articulated very well but our concern or my concern is what is at stake for us in terms of BBI; in relation that we are going there and be informed because it will be very sad if at all our fellow... this Bill is going to be passed by this House but it is just very sad when you leave the leaders that are going to discuss that Bill in this House and take the *Wananchi* and we cannot be taken for granted. We need to get this information very clear and that is why we felt that the discussion about this Procedural Motion was to proceed but if at all there is enough grounds so be it but it was very good that we know what is the position if we don't go to Nairobi! Because we can miss Nairobi, we can miss information and then we are told we passed that Motion. Thank you.

The Speaker (Hon. Khatri): So Hon. Thoya are you in suggestion that the House go for adjournment until next week?

Hon. Thoya: Whatever I was saying the debate was to proceed and when you give the green light for the debate to proceed I am at liberty to give what is in me but because you have not given the go ahead we cannot discuss the same. Thank you.

The Speaker (Hon. Khatri): But again as I told you Hon. Thoya it is you Members who have to propose that, it is not me to give the way; it is upon you Members. The Standing Order is very clear and the Hon. Majority Leader did not propose for the adjournment so he seeks leave to remove the adjournment. So yes Hon. Thoya? Yes Hon. Fadhili?

The Deputy Speaker (Hon. Mwalimu): Thank you Mr. Speaker. Mr. Speaker it is evident that the Procedural Motion was coming from the Leader of Majority and the Leader of Majority represents the majority party in this Honourable House. Mr. Speaker we would like to hear from the Leader of Majority; is he opposing the BBI? That is why he does not want this Motion to proceed or he does not want the Motion proceed on his own thinking. I want the Leader of Majority to come clear Mr. Speaker. Thank you.

The Speaker (Hon. Khatri): Thank you Hon. Fadhili. Yes Hon. Murfad Amur?

Hon. Murfad Amur: Mr. Speaker the Hon. Majority Leader has said clearly for him to move such a Motion he must have got a communication, and since he did not get communication he cannot bring any issue that has no evidence nor supporting evidence. Mr. Speaker we cannot just adjourn but there must be a reason for adjournment. Thank you.

(Applause)

The Speaker (Hon. Khatri): But Hon. Amur communication is there in all newspapers I think not unless may be you have not read the newspaper. I think for the last two days we have been seeing that and...

(Interruption)

Hon. Murfad Amur: With all due respect Mr. Speaker, this is a House of laws; unless we receive either in your office or Clerk to the Assembly receives communication officially that has been forwarded to you then when you communicate to us that is an official communication through the Majority Leader. Thank you.

The Speaker (Hon. Khatri): But Hon. Amur I still disagree with you because not unless may be you are asking that communication for some other reason which may be I do not know you can explain them to me but if the issue is concern about Mombasa people and you as Hon. Member as Hon. Thoya said you need to go to Nairobi and hear the concerns about the BBI. I myself heard the President, His Excellency Uhuru Muigai Kenyatta talking about the issue and I saw it in the yesterday newspaper and today's newspaper that tomorrow there will be the meeting for the BBI so I do not know which other communication is that you want so that you may be informed that tomorrow there will be that meeting...

(Interruption)

Hon. Murfad Amur: Mr. Speaker when we are chosen we are more than 47 million in Kenya and when we are chosen like here we are 30 or 42 Members we are representing 1.2 of Mombasa on behalf of those who have been chosen. Although we wanted to be there but the law does not allow all of us to travel, may be the expenses but those who are going are representing Mombasa people. Thank you Mr. Speaker Sir.

The Speaker (Hon. Khatri): So there are people who will be going?

Hon. Murfad Amur: (Off Microphone).

The Speaker (Hon. Khatri): Okay from the same House?

Hon. Murfad Amur: (Off Microphone) but village elders and other people Mr. Speaker.

The Speaker (Hon. Khatri): But as far I am concerned as the Speaker I have not seen anyone bringing any letter of notification to my office that they are going to Nairobi. So...

(Interruption)

Hon. Murfad Amur: That is okay Mr. Speaker. Mr. Speaker since there is no communication, again that is it is your ruling there is no communication to you to allow your Members to travel. Then no Member should travel.

The Speaker (Hon. Khatri): Yes because I think the Standing Order is very clear that if any Member wants to leave or travel anywhere they have to notify me but as far as I know, I have not seen any notification. So yes Hon. Nyiro.

(Applause)

Hon. Nyiro: Mr. Speaker I...

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Murfad?

Hon. Amur Murfad: Mr. Speaker with all due respect if there is no communication from the Chair, even if I have brought any communication if it is not through your office I want to say it openly here, I am not travelling without your authority. Thank you Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Amur. Yes Hon. Nyiro?

Hon. Nyiro: Mr. Speaker I do not think this calls for debate but because we are discussing you have talked about the President. The President indeed has communicated to all his County Commissioners and sent official information to his Commissioners to attend.

We are an Assembly and we ought to have also received information from our President who is our Governor inviting us to the same venue. So because we have not received that information Mr. Speaker that is why the Majority Leader has said that he has not received the official communication from wherever he receives the information for us.

So because of that even if there was an invitation on a private manner maybe towards me, direct to me by area DCC. Maybe if I was to travel I was to tell you, but now officially to this Assembly if we have not received any information then we cannot travel Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Nyiro. Yes Hon. Moraa.

Hon. Ngare: Thank you Mr. Speaker; I just want to give a comment that I think the Majority Leader brought or rather organized for the Motion to be in the Order Paper with an assumption.

He hoped that arrangements were being made for this Hon. Members to travel for the launch of BBI which of course has been on air for some time, and it was common knowledge that as Hon. Members we would have been organized for through prior arrangements to attend it because that is a national issue and we represent citizens of this County. But it is unfortunate that the communication never came through you so that the Majority Leader could know in advance. And therefore him coming here to ask for withdrawal of the Motion is very much in order and I do support it, if there are people...

(Applause)

Who have been invited, I think those are under dealings which are not acceptable. We should all be invited if possible or majority of us. Thank you so much Mr. Speaker.

The Speaker (Hon. Khatri): Thank you Hon. Milka. Yes Hon. Kitula?

The Chief Whip (Hon. Kitula): Mheshimiwa Mwenyekiti kwanza kwa heshima yako tusingependa kuweza kuongea jambo hili kinyume na sheria. Nimeanza kusema kwamba ni jukumu la Kiongozi wa Wengi kutoa muelekeo hapa. Kiongozi, Mheshimiwa Mwenyekiti wanaongea kuhusu BBI, wakati hata katika *Order Paper* hakuna suala la BBI hapa; ni yeye kuweza kutupatia muelekeo, je haya mapumziko ilikuwa ni sababu ya BBI au labda Kiongozi wa Wengi alikuwa anatupangia safari ya kuenda West Pokot ya kuenda kutoa pole. Lakini sasa tukianza kuongea BBI bila hata kupata taarifa kutoka kwa Kiongozi wa Wengi, yeye ndio atuambie *confirmation* ya barua ni gani na sababu gani *Procedural Motion* imeingia katika *Order Paper* ndio tuweze kujua kujadili nini, lakini hivi sasa tunaanza kuongea mambo ya BBI kabla Kiongozi wa Wengi kutuambia *confirmation* kuwa ni ya nini? Mheshimiwa Spika kwa muelekeo wako naomba utuelekeze.

The Speaker (Hon. Khatri): Yes Hon. Shebe?

Hon. Athman Shebe: Ahsante sana Mheshimiwa Mwenyekiti. Maelezo tu; isitoshe Mheshimiwa Mwenyekiti hii si mara moja si mara mbili lakini wasema mfanya kosa hajatenda kosa bali arudiapo kosa ndio kafanya kosa. Mheshimiwa Mwenyekiti wewe ndio Kiongozi ama ndio Rais wa Bunge hili la Mombasa. Kwa hivyo taarifa, maelezo yeyote, waraka wowote, ujumbe wowote Mheshimiwa Mwenyekiti inatakikana upitie ofisi yako. Kwa hivyo ikiwa hakuna uwiano, ikiwa hakuna muamala mzuri katika ofisi yako Mheshimiwa Mwenyekiti...

(Applause)

Iwe funzo Mheshimiwa Mwenyekiti, Mheshimiwa yeyote atakuwa hana uwezo...

(Interruption)

The Speaker (Hon. Khatri): Yes Hon. Nyiro.

Hon. Nyiro: Hon. Shebe is misleading the House. It is not all the information that must come to the Hon. Speaker. Information concerning Party issues comes to the Majority Leader.

The Speaker (Hon. Khatri): Thank you Hon. Nyiro. Yes Hon. Shebe?

Hon. Shebe Athman: Ahsante sana Mheshimiwa Mwenyekiti. Sasa leo Mheshimiwa wa Bamburi anasema taarifa inakuja kupitia Kiongozi wa wengi Bungeni lakini haimaanishi kuwa Kiongozi wa Wengi Bungeni ana uhuru wa kuitamatisha ile taarifa bila ya kupitia ofisi ya Mheshimiwa Spika. Kwa hivyo mimi naona kuwa hili ni kosa ambalo limefanyika, hivyo basi mimi napendekeza Waheshimiwa wenza kuwa sisi tuko hapa Raisi wa Bunge hili la Kaunti ni Mheshimiwa Spika. Kwa hivyo ikiwa kutakuwa na waraka wowote, ujumbe wowote, basi ni aula zaidi kupitia kwa ofisi ya Mheshimiwa Spika.

Kwa hivyo mimi naona kama Mheshimiwa sisi ni vizuri tuwakilishe wananchi wetu kama kawaida badala ya kuenda mapumzikoni kwa muda mchache. Kesho nikikumbuka Mheshimiwa Spika taarifa ambayo maelezo ambayo natarajia katika kikao cha kesho kwangu na kwa wakaazi wa Mombasa Mheshimiwa Spika ni muhimu sana, kwa hivyo kwa maoni yako niko chini ya himaya yako kuomba Bunge hili liendelee na shughuli ili tuhakikishe tunawahudumia wakaazi wetu wa Mombasa. Ahsante sana Mheshimiwa Mwenyekiti.

(The Speaker (Hon. Khatri) exited the Chair) (The Deputy Speaker (Hon. Mwalimu) in the Chair)

The Deputy Speaker (Hon. Mwalimu): Yes the Leader of Majority, will you respond on your stand pertaining to the Motion.

The Leader of Majority (Hon. Mwidani): Bwana Spika dini inasema ukiwa Kiongozi kuwa Kiongozi wa haki *Lillahi*, na mimi nawaomba usiwe Kiongozi ambaye hujielewi saa zengine. Mheshimiwa Spika hili jambo tumelizungumza kwa *Chamber* na baadhi ya hawa wanaojifanya sasa wanataka kwenda ndio waliokuwa wanasema kuwa hawataki kuenda kwa sababu afadhali wafanye mikutano kuliko kwenda pahali bila maslahi. Sasa inabidi muelezewe maneno ya ukweli. Kwa hivyo Bwana Spika mimi nimesimama wima, mimi ndio mwenye Hoja na Hoja hii naitupilia mbali kwa sababu sijapata mawasiliano ya kuweza kufanya Waheshimiwa wasafiri, kesho mtu akija safiri halafu apatikane kwamba ulipelekwa na barua gani? Aseme ni Kiongozi wa Walio Wengi? Natupilia mbali Hoja yangu na huu ndio mwisho hakuna mwengine anaweza kuniambia...

(Applause)

The Deputy Speaker (Hon. Mwalimu): Thank you, the Leader of Majority. Hon. Members not unless that there is any other Member who is willing to bring back the Motion is at liberty but in the meantime the Motion will stand as the way Hon. Mwidani, Majority Leader has stated and we proceed with the Business of the day. Yes Clerk?

ADJOURNMENT

Hon. Members there being no other Business the House stands adjourned until tomorrow, Wednesday at 10:00a.m.

The House rose at 3:54p.m.