

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF KILIFI

THE HANSARD

Tuesday, 27th October, 2015

The House met at the Temporary Chambers at the defunct Malindi Municipal Council, Malindi Town, 2.30 p.m.

[The Deputy Speaker (Hon. Mwambire) in the Chair]

PRAYERS

MOTIONS

AMENDMENTS ON THE COMMITTEE ON RULES AND PROCUDURES

The Deputy Speaker :(Hon. Mwambire): Yes proceed hon. Dele.

Hon. Dele: Thank you Mr. Speaker, Sir. I have been delegated by the Chairman on procedure and Rules. I beg to move the following Motion:

AWARE That, the committee on Rules and Procedure is constituted under Standing Order 189.

AWARE That, the core mandate of the said committee is to propose amendments to the Standing Orders as stated in Standing Order 189 (4).

AWARE That, Standing Order 185 states that:

- 1) *There shall be a select committee to be designated the Committee on Appointments to be appointed by the County Assembly, consisting the Speaker as a Chairperson, the Leader of the Majority Party, the Leader of the Minority party and not more than six other Members nominated by the County Assembly Business Committee, on the basis of proportional party Membership in the County Assembly taking into consideration the numerical strength of the Parties and interests of Independent Members.*
- (2) *The Committee on Appointments shall be appointed within seven days on Assembly of a new County Assembly and shall serve for a period of three years and that appointed thereafter shall serve for the remainder of the term of the County Assembly.*
- (3) *In the absence of the Speaker, the Committee shall elect a member, from amongst its members to chair the meeting.*
- (4) *The Committee on Appointments shall consider the approval by the County Assembly, appointments under Articles 179(2) (Members of County Executive Committees).*

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186 *The quorum of the Committee on Appointments shall be one half of the Members of the Committee, but the Speaker shall not be counted for the purposes of quorum and shall not vote.*

Noting that, the Committee has considered the provisions of Standing Order 185 in its entirety. The Committee on Assembly Rules and Procedure urges the County Assembly to consider and Adopt the following Amendments:-

1. That, Standing Order 185 be amended by-
 - Including the **Deputy Speaker** to the membership of the Committee in Standing Order 185(1) and further Increase the Committee membership from **Nine (9)** to **Thirteen (13)**.
 - Amending Standing Order 185(3) where in the absence of the Speaker, the Committee shall elect a member, from amongst its members to chair the meeting to read “**the Deputy Speaker shall chair the meeting in the absence of the Speaker**”, and in the absence of the Speaker and the deputy Speaker, the Committee shall elect a member amongst the members to chair.
 - Introducing 185 (5) to read “**the quorum of the Committee on Appointments shall be one half of the members of the Committee. The ex officio chairperson shall not be counted for the purposes of quorum and shall not vote unless there is a tie. All other matters shall be decided by a majority vote of the members present constituting a quorum.**”
2. That, Standing Order 186 be deleted.

The Deputy Speaker :(Hon. Mwambire): Who is seconding?

(Hon. Hassan stood at his place to second)

Hon. Members, there is a typing error and maybe most of the documents that you have may not be having the error, just check clearly as I read it through. Look at the second proposed Amendment. Amending Standing Order 185 (3), I will read through so that you can get the right version which was supposed to be on the documents. Where in the absence of the Speaker, *the committee shall elect a Member from amongst its Members to chair the meeting*. The Deputy Speaker shall Chair the meeting in the absence of the Speaker. This is the part that is not in the documents. In the *absence of the Speaker and the Deputy Speaker the committee shall elect a Member from amongst its Members to chair*. I believe you have grabbed that. Yes hon. Kenga.

Hon. Kenga: Thank you very much Mr. Speaker. I am hearing from you that there is a typing error; to my understanding a typing error is where something has been typed because it does not appear anywhere in the Order Paper.

The Deputy Speaker (Hon. Mwambire): It is an omission...

Hon. Kenga: Yeah, it is an error of omission not a typing error.

The Deputy Speaker (Hon. Mwambire): Hon. Members, the Motion is now ready for debate.

(Question proposed)

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Hon. Hamza.

MOTION OF ADJOURNMENT UNDER STANDING ORDER NUMBER 50 (B)

Hon. Hamza: Thank you Mr. Speaker, Sir. I beg to move a deferment Motion under Standing Order No. 50(b). I have tried to go through the Motion and it has a lot of issues that we feel we need more time to deliberate on them before we pass this Motion. Most of the issues are elements which are contradicting to the composition of a committee. Therefore, I would wish that the hon. Members will agree that we defer this Motion for further consultation before we deliberate on it.

The Deputy Speaker :(Hon. Mwambire): Anybody seconding?

(Hon. Nzaro stood at his place to second)

Hon. Members, a Motion that is allowed to be moved without a Notice of Motion has been moved, whereby Members proposed that this Motion be deferred to a later date so that Members can have more time to research and consult. Let me hear from hon. Gambo.

(Question proposed)

Hon. Gambo: Thank you Mr. Speaker Sir, I stand to support the Motion of deferment of this Motion. Through my observation, I do not know whether I was in the Assembly or Ward but I did not see a Notice of Motion. I can see there is a Notice of Motion attached on the same Motion; now the Motion has been moved before the Notice of Motion. So, on that I stand to support that this Motion be deferred to another time. Thank you.

The Deputy Speaker (Hon. Mwambire): Yes hon. Mzungu.

Hon. (Dr.) Chitibwi: Thank you very much Mr. Speaker, Sir.

(Laughter)

Mr. Speaker, Sir. I believe we need some psychiatrist to consult in this Assembly. I stand to oppose the Motion of adjournment. We all know the history of this Motion. It was a very simple thing on the role that the Speaker plays in the appointment and we recognize that it is only one small Clause in the Standing Orders that brought this issue. We agreed in a small Kamkunji that they need to change that, not a small kamkunji but when the Speaker was presenting the problem. Now, if we say we adjourn to consult only a small matter we are setting a very bad precedence. We received this paper yesterday; I know as a Member of this Assembly my job is to read what is presented to me.

I read this one yesterday; it takes only 10 minutes to read this but because we do not have time to read a short paper like this, we are adjourning a very important Motion. Okay, we can adjourn but we are setting a very bad precedence. How many motions are we going to adjourn in this House and when are we going to have time to revisit all the Motions? I believe Mr. Chairman ...

(Hon. Kiraga stood on a Point of Order)

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The Deputy Speaker (Hon. Mwambire): There is a Point of Order

Hon. Kiraga: Mr. Speaker, I believe hon. Gambo was trying to put forward his opinion and I would wish my fellow Member hon. (Dr.) Chitibwi to give his views on why is he opposing the adjournment of this Motion? Dwelling on what hon. Gambo has said, he was expressing his views.

(Hon. Dele stood on a Point of Order)

The Deputy Speaker (Hon. Mwambire): Okay, there is a point of Order from hon. Dele.

Hon. Dele: Thank you hon. Speaker. I do not understand why a hon. Member stands to give his views then somebody wants to lecture him to give up his views instead of you hon. Speaker? Why don't we give guidelines? Thank you Mr. Speaker.

The Deputy Speaker (Hon. Mwambire): I think hon. (Dr.) Mzungu Chitibwi was in Order. Proceed hon. (Dr.) Mzungu Chitibwi so that we can wind up.

Hon. (Dr.) Chitibwi: Thank you very much Mr. Speaker. I think some Members of this House want to play the role of the Speaker and I do not think you should allow that. You know the rules; you should give the ruling not a hon. Member to stand here to give the ruling. I am giving an opinion on the request for adjournment.

I believe hon. Members requesting for an adjournment, we have an opportunity to support or oppose the Motion so let people have their views during that debate and the Members will decide but we should not adjourn Motions simply because we have said we do not have enough time. I oppose adjournment unless those views will be expressed during the main debate.

The Deputy Speaker (Hon. Mwambire): Hon. (Dr.) Chitibwi, I am not the Chairperson, I am the Speaker, put it clear so that it be clear in the HANSARD. I will be the Chairperson when I will be Chairing the Liaison Committee.

Hon. (Dr.) Chitibwi: My apologies.

The Deputy Speaker (Hon. Mwambire): Hon. Nzaro

Hon. Nzaro: Thank you Mr. Speaker. I rise to support the deferment of this Motion. Why I am supporting the deferment is that if you go to our Standing Orders, Standing Order number 169 clearly stipulates how a Committee should be constituted. In the absence of the Chairperson, the Vice Chairperson takes over and in the absence of the vice Chairperson then a designated Member can act as the Chairperson in that Committee. If you look at what we are trying to propose in these amendments, they are already stipulated in the Standing Orders so I am confused and that is why I wanted to have some ample time to deliberate on these issues so that when we come here then we are on the same page.

Secondly, maybe there are other issues. The hon. Member (Ms.) Jane Mwaro has been whispering to me that there are also issues which they want to be amended in the Standing Orders. It would be appropriate when we convene at a special meeting then all those things which we want amended can come at a go so that we finish this thing once and for all. Thank you Mr. Speaker.

The Deputy Speaker (Hon. Mwambire): Yes hon. Nzaka.

Hon. Nzaka: Thank you Mr. Speaker, Sir, for giving me this chance. I am in support of the deferment of this Motion to a later date. The amendments which are here are not enough. We have to research some more amendments like gender to a later date. The constitution of this

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House which is the Standing Orders is the heart of this House and in case there are amendments or insertions of issues or paragraphs in these Standing Order, there should be more time for Members to read these Standing Orders. I stand to support the deferment. Thank you.

The Deputy Speaker (Hon. Mwambire): Maybe for guidance; if you look at the first proposed amendment, it has raised the number to 13 which automatically gives an opportunity for even the other gender because currently this Committee is dominated by men. I think that is the reason why the Rules and Procedure Committee had to propose the raising of this number so that our lady MCA's can also be incorporated so the issue of gender is already captured there. The Gender and those representing the people living with disabilities among other issues are captured in the raising of the number. Okay, hon. Stanley Kenga

Hon. Kenga: Thank you very much Mr. Speaker for granting me this opportunity to make my contributions towards the Motion that is before us. While going through the Motion that was tabled by the hon. Member that led to the introduction of a Motion to adjourn, there was a very weighty issue, the error of omission that you acknowledged that had taken place. Issues of Standing Orders are weighty issues, not a small paper as the hon. Dr. Mzungu Chitibwi seems to allege; they are issues that give guidance to the operations at the business of the Assembly. Therefore, this is an opportunity for the makers of the Order of business and especially the office of the Clerk to have an opportunity because we do not want to debate on a Motion that has some areas that have been omitted only with a verbal utterance that this was omitted but is supposed to be included.

Mr. Speaker, we need this one to be on a written record. Therefore, which is one of the reasons that I call upon the adjournment of this Motion so that the drafters of the Motion can now have ample time to draft the Motion the way they intend to do and table the Motion before the House Mr. Speaker. Just let us consider all issues because the part that was supposed to have been omitted. Again, looking at 185(3) that says in the absence of the Speaker, the Committee shall elect a Member from amongst its Members to chair the meeting then it was like something was not ringing well. So as Members we need more time to go through. Let us accord an opportunity to the drafter of the Motion to bring before the Assembly a well draft Motion and then once the Motion is brought before the Assembly, Members will have an opportunity. Last issue Mr. Speaker, I wanted to rise on a Point of Order because the original Mover of the Motion has not buttoned his shirt and this is not the way we should be moving forward. Therefore, let us have your guidance. Thank you very much.

The Deputy Speaker (Hon. Mwambire): Hon. Dele.

Hon. Dele: Thank you hon. Speaker, I stand to oppose the Motion of deferment. Each and every hon. Member who is present here do understand the procedures of a Motion. This Motion was read, there was adequate time for hon. Members who could reason out and bring amendments but they did not bring out any amendments. I do still fear that even granted the time no one will bring the amendments and I do believe and I know for sure people are opposing and proposing amendments here but once out of here, for sure no amendments will be brought. One thing for sure that I understand, the Motion was read and adequate time was there for Members to bring the amendments and each and every member who was here do understand the procedures. I wonder now when the Motion is to be debated it is where hon. Members are proposing amendments...

(Hon. Nzaro stood on a Point of Order)

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The Deputy Speaker (Hon. Mwambire): There is a Point of Order from hon. Nzaro.

Hon. Nzaro: Mr. Speaker, I need your guidance because deferment of a debate over the Motion is stipulated in the Standing Orders. The Member is misleading this House. Thank you.

Hon. Dele: Still hon. Speaker, I require your guidance because my time has been wasted for a non issue because even if it is written, it is also written there is adequate time for you to bring the amendments when the Motion is read. How do you rise on a Point of Order for a non issue like this as a hon. Member?

The Deputy Speaker (Hon. Mwambire): Proceed with your points.

Hon. Dele: Thank you Mr. Speaker. Thank you very much, I end my case there.

(Laughter)

The Deputy Speaker (Hon. Mwambire): Hon. Kiraga.

Hon. Kiraga: Thank you very much Mr. Speaker. Although I was rising on a Point of Order but the Member has just sat. I want to tell him that we are not proposing amendments; we are saying that we defer this Motion to a later date. I support this Motion of deferment. Why? As the Motion Mover has put it, there are some issues that need to be clarified. If you look at the Membership of that committee and if you look at part three of the reviewed Standing Order 185 and 185, it reads ‘*in the absence of the Speaker, the committee shall elect a Member from amongst its members to chair the meeting*’, so not unless that committee has got some issues of which we are not privy to them, we should know what issues they have for them to warrant giving us this Motion. The issues of gender have also risen here. That, in that committee we thought that the committee could bring issues of gender that they have only one female MCA...

The Deputy Speaker (Hon. Mwambire): They do not have.

Hon. Kiraga: They do not have?

The Deputy Speaker (Hon. Mwambire): Yes.

Hon. Kiraga: So I thought probably they could bring those issues here as a Motion and if that was the case Mr. Speaker, we are seeing a verdict in this Motion that it has already decided that the Deputy Speaker, should sit in that Chair of which we thought we feel we could also have been given an opportunity to debate these issues. There are also several issues to amend the Standing Orders. There are also subsidiary issues of which if we are given time fellow Members can also bring some issues as far as these Standing Orders are concerned. So we beg to defer this Motion to a later date so that we can at least make further consultations. Mr. Speaker, thank you very much.

The Deputy Speaker (Hon. Mwambire): Yes, hon. (Ms.) Jane Mwaro.

Hon. (Ms.) Mwaro: Asante sana Bw Spika. Kwa heshima na taadhima mimi nami naomba kuchangia Mdahalo ambao uko mbele yetu kuhusu kuahirishwa kwa Mswaada ambao uko mbele yetu. Hili ni swala nyeti ambalo liko mbele yetu ambalo tungeweza kulijadili mbele yetu lakini swala hili limeambatwa na maswala mengine ambayo ni maswala tata. Maswala haya pia pengine yameweza kutatiza utendakazi wetu katika Bunge letu. Wenzangu wameongea na wanasema ni maswala kadha. Mheshimiwa Spika, pengine ningeweza kukufafanulia kwamba kuhusu Mswada huu tunajua kwamba kuna maswala tata ambayo yanaambatana sako kwa bako na swala kama hili. Kama ni kurekebisha kamati hii ya *Rules and Procedure* tunajua bayana kwamba kuna kamati nyingi ambazo zimeundwa kutofuatilia malengo ya katiba...

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The Deputy Speaker (Hon. Mwambire): Hon. (Ms.) Mwaro it is the Committee on Appointment not Rules and Procedure. It is the Committee on Rules and Procedure which is proposing the amendments.

Hon. (Ms.) Mwaro: Asante sana Mheshimiwa Spika kwa kunikosa. Pengine ningeendelea kuongezea kwamba ni bayana kwamba kuna Kamati nyingi ambazo zimeundwa kinyume na Katiba, kwa hivyo kuahirisha mdahalo huu sio kwamba tumekataa yaliyo hapa lakini tunataka kukaa kama Bunge tupitie Kanuni na tujue ni kamati zipi ambazo zimeundwa kinyume na sheria. Tutakapopata Kamati zile tuzilete pamoja tukiorodhesha pamoja na hii ili tukae; tunaporekebisha turekebishe kamati zote bali sio kamati moja baada ya nyengine. Mheshimiwa Spika, naunga mkono.

The Deputy Speaker (Hon. Mwambire): Yes hon. Ibrahim.

Hon. Ibrahim: Asante sana Bw. Spika kwa kunipa nafasi hii. Naunga mkono kuahirishwa kwa Mswaada huu. Si kwamba tumekataa sheria hizi zisipite bali tupatiwe nafasi kuenda kukaa kwa sababu kuna kipengele tata ambacho nimekiona ambacho kimenipatia shauku kidogo kwa sababu ukiangalia kipengele namba tatu hapa; *In the absence of the Speaker, "the Committee shall elect a Member from among its Members to Chair the Meeting."*

Kisha hapa Bw. Spika, *the Standing Order 185 being a Member of the day including the Deputy Speaker, to chair the Membership of the Committee in Standing Order 185 and further increase the committee membership from 9 to 13.* Kisha Bw. Spika, hapo *"the Deputy Speaker, shall Chair the meeting in the absence of the Speaker."* Hiki ni kipengele tata Bw. Spika. Wale Waheshimiwa ambao watakuwa wamechaguliwa, ni kwa nini Naibu Spika ndio awe Mwenyekiti? Ina maana wale Wanakamati wengine hawafai? Tupewe muda, tujadiliane sisi kama waheshimiwa tuangalie hivi vipengele ni nani aliyeshurutisha huyu Naibu Spika awekwe hapa na ni lazima awekwe na ni kwa nini? Asante sana Bw. Spika.

The Deputy Speaker (Hon. Mwambire): Yes, let me call the Mover to respond so that we can move ahead.

(Question, that the Mover now be called upon to reply, put and agreed to)

Hon. Hamza: Thank you Mr. Speaker, Sir. Much has been said in support of the deferment of the Motion and what hon. Ibrahim has just said is precisely in order with reference to the amendment of this Standing Order. What I would like to advise the Members especially those who are in contrary to the deferment of this Motion is that, whatever we were doing we were seeking for an ample time and it is within the constitution of this House that we can do so. We are not actually in a stalemate as it has been alleged by hon. (Dr.) Chitibwi that we can do so and I know where his frustrations are coming from. It is because just the other time he had a Motion which did not see the light of the day that is my feeling which can be said to be a yes or no. This House is not set just to come here and pass Motions, Mr. speaker.

The reason as to why this document has been in the pigeon hole for all that time does not necessarily qualify that upon coming here, the Motion should just go through. It can be there for as many days as twelve months and still this House has an opportunity to say yes or no depending on what is availed to us; whether it has positive or negative impact. That is what the hon. Members should understand; we are not here to rubber stamp issues. Mr. Speaker, we have resolved to defer this Motion with very clear reasons. The Committee will select as it is in the Standing Orders; the said Committee the composition is supposed to be nine Members. There is

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an adjustment of the numbers which is supposed to be 13 Members and if it is about to arrive to equality and respond to the gender issue as it is required by the Constitution then this is not the only Committee that has gone against the Constitution, Mr. Speaker.

There are many Committees which are affected by the element observed in the other Committees other than the Committee on Appointment. Again, we do not hear what will be the procedures of appointing the Committee Members. Probably it might reach a place where the gender thing will not be observed and therefore adjusting to 13 when we needed the Members. The members on Appointment Committee are the ones who have proposed that the number should rise from 9 to 13.

First, they should have given us the reasons as to why they want to do so. What has been their challenge? They should have expressed the challenges squarely to convince this House that this one appointment Committee should have the number risen from 9 to 13 but have not been able to do so. That is just but one element of contradiction in the entire document and that is why it is quite in order for this House to squarely ask for more time to deliberate and by the end of the day we will have a document for all of us; a document that is understood and has no issues of rules and laws, Mr. Speaker.

I have said there are so many things that we need to observe, if it is on the issue of response to the Constitution. We have even the composition on the County Assembly Service Board. If you look at it we have so many issues. We have issues of gender; we have issues of the disabled that we have not observed. Why is it that this one Committee brings these observations? Mr. Speaker, we will need more time to read and articulate and make adjustments where necessary to the entire document. I want to applause those who have actually contributed in support of this Motion. Actually, they knew what they were doing because they have read, they have seen where the challenge is and they have sought to have more time to deliberate and be able to guide this House in a proper direction. Thank you, Mr. Speaker.

The Deputy Speaker (Hon. Mwambire): Hon. Members, I need to put the question to the Motion to defer the original Motion as tabled by the Committee on Rules and Procedures.

(Question put and agreed to)

(Motion deferred)

ADJOURNMENT

Hon. Members, there being no other Order to transact at the moment, this Assembly adjourns until tomorrow at 2:30 p.m. May you have a good evening and a safe journey back home.

The House rose at 3.20 p.m.