

REPUBLIC OF KENYA

MANDERA COUNTY ASSEMBLY

THE HANSARD

Tuesday, 18th August, 2020

*The House met in the Assembly Chambers
County Assembly Buildings at 2.30 p.m.*

[The Speaker (Hon. M. A. Khalif) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

RESOLUTION OF NARC KENYA PARTY AND NOMINATION OF HON. JIMALE TO BUDGET AND APPROPRIATIONS COMMITTEE

The Speaker (Hon. M. A. Khalif): Hon. Members, in compliance with the provision of Standing Orders 157 (1) and my indulgence in my Communication of 23rd June, 2020 and 11th August, 2020, I hereby convey the Narc Party resolution as follow-

I am in receipt of Narc-Kenya Party resolution and Minutes dated 17th August, 2020, that the Party Members through consensus resolved as follows-

- I. THAT, Hon. Nasra Noor Mohamed has been nominated as Narc-Kenya Party Whip
- II. THAT, Hon. Nasra Noor Mohamed has been nominated to serves in the Budget and Appropriations Committee.

Hon. Members, I am also in receipt of letter dated 18th August, 2020 from Hon. Nasra Noor Mohamed confirming her acceptance as Narc-Kenya Whip of Mandera County Assembly.

Hon. Members, further I am also in receipt of a letter dated 18th August, 2020 from Hon. Nasra Noor Mohamed that following the resolution of the Narc Kenya Party of 17th August, 2020 that-

- I. Hon. Nasra Noor Mohamed retains her slot of membership to the Budget and Appropriations Committee
- II. Hon. Yussuf Maalim Dakane be discharged as a member of Budget and Appropriations Committee in compliance with the Narc-Kenya Party resolution of 17th August, 2020

Hon. Members, I therefore want to convey that the Narc Kenya party has duly complied with the provision of Standing Orders 157 (1) and the directives I issued on 11th August, 2020.

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Hon. Members, Hon. Abdullahi Yunis Guliye vide letter dated 17th August, 2020 brought to my attention that due process was not followed by the Jubilee party in nominating Hon. Jimale Abdi Hassan to serve in the Budget and Appropriations Committee.

Hon. Abdullahi Yunis was discharged from Budget and Appropriations Committee through a letter from Minority Whip dated 16th June, 2020 in accordance with Standing Order 159 (1) after the Office of the Clerk received resolutions of the Jubilee Party on the same which was communicated to the House. Hon. Abdullahi Yunis, in his letter, stated that he has attached minutes to confirm his allegations that due process was not followed. However, there was no minute attached to his letter but a leaflet containing resolution of nominating Hon. Jimale Abdi Hassan to the Budget and Appropriations Committee.

Hon. Members, having gone through the minutes of the Minority Party and the letter from the Minority Party Whip of 16th June, 2020, I have observed that Jubilee party has followed due process in discharging Hon. Abdullahi Yunis Guliye from Budget and Appropriations Committee.

Further I am in receipt of a letter from of the office of Minority Party whip and Minutes of resolution of the Jubilee party dated 11th, August, 2020 with regard to nomination of Hon. Jimale Abdi Hassan to serve in Budget and Appropriations Committee.

NOTICES OF MOTION

ADOPTION OF REPORT OF LAND, HOUSING AND PHYSICAL PLANNING COMMITTEE ON EL-WAK MUNICIPALITY CHARTER (AMENDMENT) 2020

Hon. Hindia Hussein (Nominated): Mr. Speaker, I beg to give Notice of Motion; -
THAT this County adopts the report of Land, Housing and Physical Planning Committee on El-wak Municipal Charter (Amendment) 2020

I am the vice Chair and I am doing it on behalf of the Chair for Lands.

Thank you.

The Speaker (Hon. M. A. Khalif): That this County Assembly, you just said County so it should be county Assembly adopts the report okay? Next Order!

ADOPTION OF THE REPORT OF THE COMMITTEE ON SELECTION

Hon. Abdi Adan (Neboi): Mr. Speaker. I beg to give Notice of Motion; -
THAT this County Assembly adopts the report of the Committee on Selection

Thank you.

PROCEDURAL MOTION

ALTERATION OF REGULAR ASSEMBLY CALENDAR

Hon. Abdi Adan (Neboi): Thank you, Mr. Speaker. Again, I want to move a Procedural Motion; -

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THAT, pursuant to the provisions of Standing Order 28 (4), the County Assembly resolves to alter its regular calendar 2020 by extending the recess period from 13th August 2020-31st August 2020 that was initially in the calendar now to start from, I think there was a typing error, 19th August 2020 to 7th September 2020.

The Speaker (Hon. M. A. Khalif): We are just altering the calendar.

Hon. Abdi Adan (Neboi): Yes from 13th August, we are not starting the recess from 13th but we are starting from 19th and ending 7th September, 2020. I hope you have now understood. Last week we extended the sitting of this House for one week from 13th to 19th August. This is just in line with the week we have just extended and that one week we have added to the recess which is supposed to be 31st August to 7th September.

Mr. Speaker, I want to urge the Hon. Members to approve the changes in the calendar from 20th August to 7th September, 2020. Our recess will be starting on 20th August Thursday and will end on Monday 7th September 2020 God willing.

Mr. Speaker, last week, there was an issue raised by Hon. Kulow. The Clerk and I did research on the issue that a Procedural Motion cannot be seconded. Hon. Kulow did not give us the Standing Order and also the Speaker of the day did not give direction on that. Our Standing Order 52 talks about Motion that can only be moved without notice; Procedural Motion was part of that. There is nowhere in the Standing Order that we cannot second a Procedural Motion or put the question the way he was saying.

With those few remarks, I ask the Minority Leader to second the Motion.

Thank you.

Hon. Jimale Abdi (Guba): Mr. Speaker, I would like to second the Procedural Motion moved by the Majority Leader. It is true that last week we had a problem that Hon. Kulow challenged us on the floor of the House that a Procedural Motion is not to be seconded. I have gone through the Standing Order of the National Assembly and the Senate and our Standing Order No. 53 (1 & 2) and it has been proven that a Procedural Motion can be seconded. That time Hon. Kulow must have read it somewhere.

The Speaker (Hon. M. A. Khalif): Just concentrate on the seconding. The issue of Hon. Kulow is not the matter.

Hon. Jimale Abdi (Guba): I am concentrating on that. He must have read somewhere in the Standing Order but all the same it can be seconded.

Secondly, we were supposed to go for recess last week 13th but due to some reasons and business pending before us we decided to extend our recess to 19th which is tomorrow. I request the Hon. Members to support the Procedural Motion so that we will be having our two weeks recess from tomorrow.

Thank you.

(Question proposed)

The Speaker (Hon. M. A. Khalif): Hon. Kulow.

Hon. Kulow Alio (Rhamu): Mr. Speaker, it is true that that was my opinion then. I want to say two things; precedence becomes a law as per my understanding. Once precedence is set it must be followed. The problem we have is that when a Member uses Standing Order No. 1 he is making precedence on issues not found in the Standing Order. The Speaker uses that Standing

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Order to make precedence and the decision that the Speaker makes becomes rule that is supposed to be followed.

On that note I raised two issues, we know that our calendar was supposed to end last week 13th but by then we have not extended the life of this Assembly to next week. The House Business Committee is supposed to make agenda for next week but according to our calendar this week we are supposed to be on recess. My argument was that, why don't we wait for us to extend the sitting of this House from this week to next week so that you can set the agenda for next week? If you set an agenda for next week and as per our calendar the sitting is supposed to end on 13th my argument was we have not extended the life of the Assembly up to next week.

Mr. Speaker, secondly, my argument on the Procedural Motion was that precedence was set---

The Speaker (Hon. M. A. Khalif): Just be clear, by whom? When?

Hon. Kulow Alio (Rhamu): I cannot remember but there was precedence that was set. However, when I raised the issue I was overruled. The Speaker ruled that the Motion was to be seconded and question put. I was satisfied and I sat. That is already a precedent that has been set.

Hon. Ahmed Rashid (Gither): Point of order Mr. Speaker.

The Speaker (Hon. M. A. Khalif): On which order are you rising?

Hon. Kulow Alio (Rhamu): Last week, a precedent has been set that a Procedural Motion be seconded and put to question. Therefore, once a precedent has been set and the Speaker rules, then it becomes a law. Today, if it is seconded, I have no issue with it because a precedent has been set before.

Thank you.

The Speaker (Hon. M. A. Khalif): I think to be clear—when we are talking about Standing Order No. 52 talks of Motions. It does not say whether it is a Procedural Motion or other Motions.

If you have been following the proceeding of the Senate yesterday, for those who have been following the revenue bill, all those Procedural Motions were proposed, seconded and put to question. Standing Order 52) is very clear that any Motion must have a proposer, seconder, debated on and be put to question. But the issue we are discussing now is not that. I do not know why the members have raised that. What we are discussing is the extension of the House from 13th-19th August, 2020. You either support or oppose.

Hon. Wariyo!

Hon. Ibrahim Ali Wariyo (Shimpir Fatuma): Mr. Speaker, I rise to support the Procedural Motion moved by the Leader of Majority Party. I also want to thank the honorable member representing Rhamu, Hon. Kulow Alio, who made history by engaging the two Party Leaders to go on research. That has been achieved through an argument that has been brought by Hon. Kulow Alio. At that point in time, it has happened that no one has challenged Hon. Kulow Alio. It means that he has made everyone to go back to the Standing Order. I echo his move.

I support this Procedural Motion knowing very well that we extended the House by one week after deliberations by the two Party Leaders and through their wisdom they found it fit we go for the recess.

I support because I have been represented by Party leaders who made consultation on the extension of the House.

Thank you.

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The Speaker (Hon. M. A. Khalif): Hon. Yakub!

Hon. Yakub Hassan (Derkhale): Mr. Speaker, it is in order that we support this Procedural Motion because last week as an Assembly we discussed that there are important pending issues in the Assembly. Unless we finish these pending issues then we cannot go for recess. That is why we have agreed to extend the House by one week. And because the normal calendar reads 13th and we have extended the House to 19th, now we are forced to change the calendar because one week or 10 days is not enough for us to go to our Wards. As said by the honorable member representing Guba, it is not that we go for recess from tomorrow but we will go after tomorrow.

Hon. Kulow Alio (Rhamu): Is it in order?

The Speaker (Hon. M. A. Khalif): Even before I gave you, you just contributed. But I want the members to say on which order and unless we do that, then we are not going to learn these Standing Orders and now we are going to the third year. So, going forward, anybody who is raising a point of order must say which Standing Order.

Hon. Kulow Alio (Rhamu): I am on the Speaker's rules which we do not have a copy as honorable members.

The Speaker (Hon. M. A. Khalif): But It is already in the Standing Orders

Hon. Kulow Alio (Rhamu): What if somebody wears and it is not found in the Standing Orders?

The Speaker (Hon. M. A. Khalif): It is descent dressing.

Hon. Kulow Alio (Rhamu): But it is specified in the Speaker's ruling.

The Speaker (Hon. M. A. Khalif): Just have a seat. Hon. Yakub, dress properly if you have not dressed properly. Is that ok with you?

Hon. Kulow Alio (Rhamu): Yes.

The Speaker (Hon. M. A. Khalif): Proceed.

Hon. Yakub Hassan (Derkhale): Thank you, very much, Mr. Speaker.

The Speaker (Hon. M. A. Khalif): Just have your copy of the Standing Orders. If you want to raise point of order, then state which Standing Order you are raising on. So, going forward, you cannot rise on a point of order unless you state which order you are rising about.

Hon. Yakub Hassan (Derkhale): Thank you, very much, Mr. Speaker for your protection. I stand to support the Procedural Motion.

Thank you.

The Speaker (Hon. M. A. Khalif): Hon. Hindia!

Hon. Hindia Hussein (Nominated): Mr. Speaker, I stand to support the Procedural Motion because as Lands, Housing and Physical Planning Committee, I have benefitted from the extension of this House. Land, Housing and Physical Planning Committee is bringing the Municipality Charter (Amendment) for El-wak tomorrow and it will be a good thing that we have done for Mandera South as a whole.

Thank you.

(Question put and agreed to)

The Speaker (Hon. M. A. Khalif): Next Order!

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ADJOURNMENT

The Speaker (Hon. M. A. Khalif): The House stands adjourned to tomorrow at 2:30 p.m.