

COUNTY ASSEMBLY OF NAKURU

THE HANSARD

Tuesday, 18TH February 2020

Assembly Building

The House met at 2.45pm

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

PRAYERS

MESSAGE

GOVERNOR'S MEMORANDUM

The Deputy Speaker (Hon. Samuel Tonui): I have around four messages to communicate, Honorable Members I am in receipt of Governors' memorandum referring back the following bills for further consideration by the assembly-

1. The Nakuru Cooperative and Revolving Development Fund Bill 2019
2. The Nakuru County Tourism and Marketing Bill 2019
3. The Nakuru County Enterprise Fund Bill 2019
4. The Nakuru County Trade Bill 2019

These came from the Governors' Officer for reconsideration, which means there are some issues to be looked at. This stands committed to the Committee on Trade, Tourism, and Cooperatives. The considerations should be done in the Committee before it comes to the floor of the house for approval. What is it Honorable Karanja.

Hon. Stanley Karanja: I am wondering the reasons because after the Bills pass through the Committee, it was the House that did approve, now because they have been brought back may be you could have told us that these Bills have been brought back to the House so that you refer back to the Committee because of the following reasons. After the Committee did its business, it was the House that did approve and now giving them without telling us the reasons, we are now wondering.

The Deputy Speaker (Hon.Samuel Tonui): Honorable Karanja normally when the Bill are referred back for reconsideration by the House it goes to the relevant Committee for consideration first before it comes to the House again, that is the procedure of the Standing Orders.

Hon. Stanley Karanja: Honorable Deputy Speaker, I do not doubt that, I doubt the reasons because after you have read that this Bill has been referred back the House because of this and this. It is from now that you referrer back to the Committee.

The Deputy Speaker (Hon. Samuel Tonui): The reasons are many and if I go through one by one it will take time but normally, we just read the heading and then we commit to the relevant Committee for consideration and later it comes to the House for debate.

Hon. Peter Mbae: I think the Member is right in order, I think according to the Standing Orders the Bills should come back to the House and it is at that time that the Members will be informed of the memorandum that accompanied the Bills.

What happened this morning, as a matter of procedure and a matter of formality, I was able to share with the Committee all the details of what happened. However at the earliest opportunity may be tomorrow morning at the sitting of House Business Committee, we will request for time to be allocated the earliest time possible where officially now the Bills will come back here with memorandum and the reasons. It is for this House Honorable Deputy Speaker, to consider those reasons, vote, and amend it appropriately.

The Member is right in order, as a matter of conveyance is that I inform the Committee.

The Deputy Speaker (Hon.Samuel Tonui): You have told us that you have already discussed the matter before it has even come to the House, I think first it should come to the House and then I will give it back to the Members of the Committee to discuss about it. After that, you bring it to the House and all the Members will discuss.

MOTION

PROCEDURAL MOTION

The Deputy Speaker (Hon.Samuel Tonui): There is a Procedural Motion from the House Business Committee, Honorable Philip.

Hon. Philip Rotich: Honorable Deputy Speaker, there are Members who are dressed in unparliamentarily way. The Deputy Whip is not in decorum and the Leader of Majority.

The Deputy Speaker (Hon.Samuel Tonui): The Deputy Whip can you please go and be on a long sleeved shirt and come back again. Honorable Philip I beg that you excuse the Leader of Majority because he has a problem with his legs, it is accepted the way it is.

Hon. Philip Rotich: Honorable Speaker, is that the way to go, is it that when we have excuses we dress the way we want?

The Deputy Speaker (Hon.Samuel Tonui): But his is a medical case, please.

Hon. Douglas Ayabei: Honorable Speaker, there is a problem in this House, I have seen a scenario Honorable Deputy Speaker where Members want to challenge the Chair, Honorable Deputy Speaker in our Standing Orders the Chair is final, once he has ruled a Member has no authority to question the ruling and the wisdom of the Chair and I think it is time Mr. Deputy Speaker, you stamp that authority.

The Deputy Speaker (Hon. Samuel Tonui): Hon. Chair that is the way it is. Hon. Malel

Hon. David Malel: Thank you Mr. Deputy Speaker, if you checked the Standing Orders it talks of decorum, that word if you analyze it is expansive, in other words decorum could be medical decorum; if somebody has problems in the legs of course he is allowed as per recommendation of a physician. With the Majority Leader, I think he is in decorum.

The Deputy Speaker (Hon. Samuel Tonui): Thank you; Hon. Chebichii.

Hon. Irene Chebichii: Thank you Mr. Deputy Speaker sir, I would like to inform you that Hon. Member who is the Deputy Majority Leader is not also in decorum, she is wearing a *Kitenge* and today is a Tuesday.

The Deputy Speaker (Hon. Samuel Tonui): Hon. Rose can you go and dress properly. Thank you Hon. Chebichii for noting that. Today it is not Wednesday.

(Loud Consultation)

Hon. Majority Leader continue.

The Leader of Majority (Hon. Moses Kamau): Thank you Mr. Deputy Speaker for this opportunity and also for protecting me. By the way I have dressed today, I had informed the Honorable Speaker, because I highly respect the rules of this House and I have a medical problem and that is why I am in these shoes. Also I am requesting that in our next training we need to include this issue of decorum so that we can have a proper definition of this term.

MOTION

HOUSE BUSINESS COMMITTEE MEMBERSHIP

Allow me now to move a Motion that Pursuant to Standing 154 (1) (e)

The House approves the appointment of the following Members to the House Business Committee in addition to those specified under paragraph (a). For avoidance of doubts let me read this paragraph

- A) The Speaker who shall be the Chairperson
- B) The deputy Speaker who in the absence of the Speaker shall chair the meetings

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- C) The leader of the Majority party
- D) The leader of the Minority party and also 154 (3) where the

1. Hon. Irene Chebichii
2. Hon. Joseph Kipkurui Bet
3. Hon. Peter Karanja Mburu
4. Hon. Wilbur Onyango Amara
5. Hon. Leah Sang
6. Hon. Peter Nyaguthii
7. Hon. Jane Wangui Ngugi
8. Hon. Eddy Kiragu
9. Hon. Ann Mukenyi Kimani
10. Hon. Grace Wambui Mwathi
11. Hon. Lily Chepkemai Kones
12. Hon. Peter Ng'ang'a Macharia
13. Hon. Elizabeth Gichuki
14. Hon. Michael Njoroge
15. Hon. Humphrey Mwaniki
16. Hon. Zainabu Zaituni
17. Hon. Joel Karuri Maina
18. Hon. David Malel
19. Hon. Eric Gichuki
20. Hon. Wilson Mwangi
21. Hon. George Kiere
22. Hon. Catherine N. Kamau
23. Hon. Daniel Kamau Githengi
24. Hon. Peter Mbae
25. Hon. Stanley Karanja
26. Hon. Cecilia Karanja

Mr. Deputy Speaker if you read the Standing Orders 154 (a) it stipulates that every session we need to have and to approve the House Business Committee.

We have not changed the Membership of the Committee but procedurally as per the Standing Orders we need this House to give the new mandate of this Fourth Session to continue with their work, and you are aware that we have a lot of work in this House so that we can start allocating the time for the agendas of the House and therefore I request the Minority leader Hon. Palanga to second the Motion.

The Deputy Speaker (Hon. Samuel Tonui): Hon. Minority Leader

Minority leader (Hon. Peter Palanga): Thank you Mr. Deputy Speaker, I second.

The Deputy Speaker (Hon. Samuel Tonui): Thank you Hon. Palanga, I now propose that Pursuant to the provisions Standing Order 154 (1) (e), the House approves the appointment of the following Members to the House Business Committee in addition to those specified under paragraph (a) (b). (c), (d) and Standing order no 154 (3). The debate is open to all.

Hon Wanyaguthii.

Hon. Peter Nyaguthii: Thank you Mr. Deputy Speaker, I wanted clarity from Hon. Majority Leader, he has read the names of the Members here, and I wanted to know who were the previous Members, how many have been added and where will their Budget come from?

The Deputy Speaker (Hon. Samuel Tonui): Hon. Majority leader, you can respond to that.

The Leader of Majority (Hon. Moses Kamau): Mr. Deputy Speaker, as I was moving the Motion, I specified that we did not change the Membership they were all retained.

The Deputy Speaker (Hon. Samuel Tonui): Hon. Wanyaguthii what is it?

Hon. Peter Nyaguthii: Hon. Speaker, I think we do have a Chair for House Business Committee and he is supposed to be in this House too read his Members and then we counter check.

The Deputy Speaker (Hon. Samuel Tonui): Who is the Chair of House Business Committee?

Hon. Peter Nyaguthii: Actually, it is you.

(Laughter)

The Deputy Speaker (Hon. Samuel Tonui): I do not know what you want to mean but I am sure the Deputy Speaker, the Majority, The Speaker himself even the Minority are all included here but the Speaker delegated this duty to somebody else.

The Leader of Minority (Hon. Peter Palanga): Mr. Deputy Speaker I am not the Chair but I am not getting this right, I do not know whether there was change in Membership of the House Business Committee or what happened. I did not get it clearly, what the Majority leader was trying to do because if there was no change then it is just ratifying. Maybe he should clarify that.

The Deputy Speaker (Hon. Samuel Tonui): The list of membership did not change so I think it is just ratifying. Hon. Malel

Hon. David Malel: Mr. Deputy Speaker, let those who are complaining point out the new Members rather than working on assumptions if we go by the words of the Majority Leader, because I think he is talking the truth based on his records. We have to adopt it.

The Deputy Speaker (Hon. Samuel Tonui): Thank you, Hon. Mwangi before I come to Hon. Palanga for clarification.

Hon. Simon Mwangi: Mr. Deputy Speaker I want to take issues with the Statement by the Majority Leader that there are no changes; if indeed the Member who is raising this issue because he is a Member of this Committee he is saying that there are additions to this Committee yet the Majority stood before this House and misled us that there are no changes I think it is unacceptable because if it is true there are changes in this.... What I am saying is, if they are indeed changes because I take issue when the Majority stands and tells us there are no changes yet a Member who is in that Committee stands and tells us there are changes in the Committee. I take that very seriously and I feel that the Majority Leader could be misleading this House and I want to request this House as our Deputy Speaker kindly to put this Motion aside because that is a very serious issue.

The Deputy Speaker (Hon. Samuel Tonui): Order honorable Member! The direction that you are taking is wrong. We want that Member to say this is the name which was not there. Can you point out?

Honorable Palang'a.

Hon. Peter Palang'a: Honorable Members, it is important to note that this House is governed by rules and as far as I am concerned, any changes to any membership to any Committee is done by the Selection Committee. As a Member to Selection Committee, we have not had any meeting to change the membership to any Committee. To this effect, I want to confirm that if indeed there is any other Member that has been added to this particular Committee, it needs to be pointed out because procedurally, we have not made any adjustments to any membership of any Committee.

The Deputy Speaker (Hon. Samuel Tonui): Order honorable Majority Leader. May I request the clerk to come with the original list so that we can compare. That is the way to go because we do not want any doubts.

Hon. Stanley Karanja: Before you order that Mr. Deputy Speaker sir. The issue of throwing aspersions is not correct. What normally happens procedurally is that if I feel that a list or any other does not tally, what I do is that I will table. You cannot ask for evidence to be solicited outside and then you bring it and then you table. I do respect what Hon. Nyaguthii is saying. You say that this is not the list and then you table the list and you do it very well. You said that there is a Chairman who is Hon. Bett who is the Vice Chair and who was not in the House and you said because you are also a Member; you know that the Members were 26 and you should have said that this is the list. Without the list, you cannot assist a Member to get evidence. You are soliciting for evidence helping a Member to delay the Motion.

The Deputy Speaker (Hon. Samuel Tonui): I think we are still debating.

Hon. Njuguna Mwaura: Mr. Deputy Speaker sir. The traditions of this House and the Standing Orders stipulate clearly that once a Chair has pronounced himself, the debate should cease. Hon. Aiyabei raised a pertinent issue that is not being followed and procedurally, if we tend towards that route, we are taking this House as a joy riding thing. This is an honorable House. As a House, we are supposed to be bound by the ruling that you made so that we continue as a House to debate once the list has been provided. Otherwise, it would be very awkward and that one will be tantamount and in making your ruling to be just ordinary rulings. Allow me to say that you are like a Judge in the High Court and once a ruling has been done, it can only be appealed by a higher authority.

The Deputy Speaker (Hon. Samuel Tonui): Honorable for Malewa.

Hon. Josephat Murage: Thank you Mr. Deputy Speaker sir. This House is guided by the rule of law. We cannot be led by words of assumption. For this House to be able to move ahead, this House has to approve the names of the House Business. For this House to progress, it has to approve the names. This House is being left without any option rather than to approve. Thank you.

The Deputy Speaker (Hon. Samuel Tonui): Honorable Cecilia.

Hon. Cecilia Karanja: *Ahsante sana Bwana Naibu wa Spika.* The usual Vice Chair that we usually have *Mheshimiwa* Wesley Maritim is not in the list.

The Deputy Speaker (Hon. Samuel Tonui): Wesley Maritim is not in the list and he is a Vice Chair. I think that is the contentious issue.

Hon. Simon Mwangi: Mr. Deputy Speaker sir, I think you had ruled on this matter. I wonder why we are still debating.

The Deputy Speaker (Hon. Samuel Tonui): What she has said is now something which is clear that the Vice Chair is not in the list.

Hon. Leah then I come to Hon. Mugi.

Hon. Leah Sang': Thank you Mr. Deputy Speaker sir. I have been in this Committee and I am not there; I am not in the list.

The Deputy Speaker (Hon. Samuel Tonui): You have been there all along?

Hon. Leah Sang': Yes.

The Leader of Majority (Hon. Moses Kamau): Mr. Deputy Speaker sir, I was very clear when I was moving this Motion. In fact, I went further today to have a standing order to read. If you read the Motion, I want to advice my Whip here, I said in addition to those specified in paragraph A, B, C and D, *mheshimiwa* Leah is a Whip and if I read my standing order that I have here, standing

order 154(3), it says, in nominating the Member of House Business Committee, all Whips are there.

The Deputy Speaker (Hon. Samuel Tonui): Order! Let Hon. Moses finish then I come to Hon. Irene.

The Leader of Majority (Hon. Moses Kamau): Mr. Deputy Speaker sir, all Whips under Section 54 (3) are Members of this Committee and also, there is a question that was raised by *mheshimiwa* Aiyabei which I need also to clarify because I was not given an opportunity under the standing order 154 (1E), the reason why we have brought this list is not because we are bringing new names or we have changed or we have altered procedurally and I want to read this so that *mheshimiwa* Aiyabei and the House can hear the reason why we have these names here. (e) Not less than 18 other Members who shall be nominated by the Assembly parties and approved by the Assembly at the commencement of every session.

This is the key; every session. It is the beginning of the Fourth Session and therefore that is why we have brought back again the names of the House Business Committee for this Committee to have new mandate from the Members of this House to continue with the agendas of allocating time to the various Committee. That is the reason and to my understanding because even I have clarified, questioned secretariat that there are no changes in the list. I have clarified that there are no changes. I have not refused if somebody is standing here to say that there was somebody who was left out. A Motion can be moved with amendments.

The Deputy Speaker (Hon. Samuel Tonui): With amendments

The Leader of Majority (Hon. Moses Kamau): So that also tomorrow this House Business Committee can sit down and start allocating the time.

The Deputy Speaker (Hon. Samuel Tonui): Okay. Hon. Irene

Hon Irene Chebichii: As I was previously a Member of House Business Committee, am just interested to note some few things. Also as a Member of Liaison Committee, just as you know how Liaison works in matters of allocation, we sincerely want to know the total membership of the House Business Committee. Secondly, our Majority Leader has highlighted that our leadership has not been listed because they are Members automatically. I can actually see honorable Wilbur who is a Deputy Minority Leader, I can see honourable Alice Kering who is the Minority Whip.

Now when you tell me that a Minority Whip is in the list and the Deputy is not in the list, how sure am I now that the Deputy Minority Whip will be included. We always have our Vice Chairperson Hon. Maritim who is not included in this. When you tell us now that we will move an amendment how sure are we? Can we first get clarification of the total membership of the House Business Committee including all the leadership who are supposed to be Members so that we can actually see the best way forward after that? We are not in a hurry to pass it Mr. Deputy Speaker Sir.

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The Deputy Speaker (Hon. Samuel Tonui): Hon Maritim you are there as the Vice Chair of this House Business Committee.

Hon Wesley Maritim: Mr. Deputy Speaker Sir, I just wanted to find out what informs that, we now have the new list, yet the other Members who were there sitting in the last Committee are not there. What are the reasons as to why you are coming up with a new list now?

The Deputy Speaker (Hon. Samuel Tonui): It is all right. Honorable Mwangi

Hon Simon Mwangi: Mr. Speaker, number one; you had ruled on this matter. Number two, it is now very clear that the list is very new. That is what has also been said by the Deputy Chairperson of the Committee. So that is why, like I said earlier, when the Majority Leader stands before this House and says nothing has changed, and then the Vice Chair is here and is even missing in their list, Mr. Speaker that is a gross.

The Deputy Speaker (Hon. Samuel Tonui): Okay honourable Ayabei

Hon Douglas Ayabei: I think Mr. Deputy Speaker Sir, I think this Motion is timely. The problem now is that our fears have been confirmed that the Majority Leader has misled the House

(Laughter)

It is now clear that he blatantly lied to the House that there were no changes. We have a scenario where the Majority Leader is moving a Motion and seconded by the able Minority Leader to mislead the House that no changes were done and yet there is a Member who actually was a Vice Chairperson of the Committee who is not finding his name here. He is lying to the House.

We can only say that the Majority Leader plus the Minority Leader are lying to the House. Mr. Deputy Speaker you had made a ruling and I wish it could have been upheld that the previous list to be tabled here so that we can compare.

Having said that, the placement of Members into Committees is purely the mandate of other Committees which we all know. By placing Members into these Committees, there were several considerations to be made including the number of Select Committees vis-à-vis Sectorial Committee. If we have placed where Members have been changed from these Committees; meaning that honourable Maritim is less one Committee and if he has been moved to another Committee, it means that he has displaced another person. As a Member of Liaison Committee, the monies or resources of Committee services are normally pegged per Member per Committee. Meaning if we go that route, in which the honourable Majority Leader is bringing, we will distort all arrangement and legislative arrangement of resources aligned to every Member of the House. Therefore, I think we need the Majority to withdraw this Motion so that clarity can be made in this issue

The Deputy Speaker (Hon. Samuel Tonui): Majority Leader

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The Majority Leader (Hon. Moses Kamau): Mr. Deputy Speaker let me say that; one is that I am not misleading or giving false information to this House. All as we are aware including my great friend honourable Ayabei, we know that the setup of our House is that we have secretariat that backs our services as honourable Members and I had done my due diligence to request from the Clerk's office, if in fact before I read this, my first question was the list has been altered. Is there anybody who has been removed or added and I think the answer I got is that there is not. Because I had done my best to know if there are changes. In fact the Clerk in charge who brought this list. I am requesting honourable Members, I am trying to say I did not lie to the House. I want to honor the decision of the House by giving Standing Order 53, which says a notice of Motion maybe withdrawn by the Member who gave the Notice but the same Notice of Motion either by the same or by another Member. I am requesting to withdraw this Motion because I do not have any intention to kick one of our colleagues out of this Committee. We give chance to scrutinize this list further.

The Deputy Speaker (Hon. Samuel Tonui): All right. Hon. Karanja.

Hon. Stanley Karanja: You know Mr. Speaker something has happened because what honourable Majority Leader has said is that he requested and was given an erroneous list, which we have religiously defended. Therefore, I am requesting that if something of this grievous mistake can happen and get into the House, then how sure are we that the Clerk is doing the right thing. You know this is not an issue that you withdraw the list then you disappear. It now calls upon this House to investigate the source of the list. Yes and then number two, the House should also investigate the conduct. Number 3, the House needs now to investigate the motive of wherever brought the list.

The Deputy Speaker (Hon Samuel Tonui): Hon Karanja I think what honourable Majority Leader has read to us in Standing Order 53 is enough. After he has withdrawn the list I think that is the procedure. Hon Karanja you are right but first of all the mover of the Motion has decided to withdraw then after that, what you have said will follow to know where the was error and all those other things.

So please that Motion stands withdrawn as per the procedures until another list comes again through the same person as per the Standing Orders and the Member will have to scrutinise again.

ADJOURNMENT

This House stands adjourned until tomorrow at 9.30 in the morning.

The House rose at 3.30pm

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