



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Second Session

Tuesday, 19 August, 2014

The House met at 2.30 p.m.

(Hon. Speaker Alex Magelo in the Chair)

### PRAYERS

### PAPERS

**Hon Majority Chief Whip** (Mr. David Njilithia Mberia): Thank you Mr. Speaker Sir. Pursuant to Article 229 (7) of the Constitution, I beg to lay the following Paper on the Table of the Assembly today Tuesday, 19<sup>th</sup> August 2014. The report of the Auditor General on City Council of Nairobi Financial Statements for the year ended 30<sup>th</sup> June 2012. Thank you, Mr. Speaker.

**Hon Speaker:** Thank you very much, Hon Chief Whip. The Report of the Auditor General on the City Council of Nairobi financial statements for the year ended 30<sup>th</sup> June 2012, stands committed to the Public Accounts Committee to look at it and report back to the Assembly within 90 days; pursuant to Article 229 (8) of the Constitution. Thank you.

### STATEMENTS

**Hon Speaker:** The Chairperson Sectorial Committee on Legal Affairs.

**Hon Chairperson Sectorial Committee on Legal Affairs** (Mr. Jaffer Abdulahab Kassam): Thank you Mr. Speaker Sir. This a response to Statement requested by Hon Njoro Kairu, MCA.

Hon Speaker Sir, on Thursday, 24<sup>th</sup> July 2014, Hon David Njoro Kairu, MCA, rose on the floor of the Assembly pursuant to Standing Order 41 (2) (c) and requested the Chairperson of the Sectorial

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Committee on Justice and Legal Affairs for a Statement regarding increased death rate of City County Askaris in the County Inspectorate Department, Nairobi City County. He further asked the Chairperson to inquire into and report on the number of City Askaris who have lost their lives in the last two years; cause of their deaths and measures put in place to reduce the death rate; whether the County has enough Law Enforcement Officers/Askaris and number of Askaris due to retire and what the department is doing to replace them.

Mr. Speaker, the Committee wrote to the Chief Officer for Security, Compliance and Disaster Management on 5<sup>th</sup> August 2014 requesting to be furnished with a written response to the Statement by Hon. David Njoroge Kairu. In this regard, I wish to report to the Assembly as follows:

That,

**A. ON THE NUMBER OF CITY ASKARIS WHO HAVE LOST THEIR LIVES IN THE LAST TWO YEARS**

Mr. Speaker Sir, the Department is reporting obituaries of 48 number of officers based on their manpower number, designation and date of death. Whereby 25 officers died between June 2012 to July 2013 and 23 officers died between June 2013 and July 2014 Financial year.

**B. ON THE CAUSE OF THEIR DEATHS AND MEASURES PUT IN PLACE TO REDUCE THE DEATH RATE**

Mr. Speaker Sir, the Department further stated that the cause of death of the officers is a confidential matter to the bereaved families.

**C. ON WHETHER THE COUNTY HAS ENOUGH LAW ENFORCEMENT OFFICERS/ASKARIS**

Mr. Speaker Sir, the Department has personnel approved establishment summary list of 5,063 officers approved by the Security Committee out of which 2,258 officers are in post, leaving a shortfall of 2,805 officers in the City Inspectorate Department.

**D. ON THE NUMBER OF ASKARIS DUE TO RETIRE AND WHAT THE DEPARTMENT IS DOING TO REPLACE THEM**

The total number of officers who are due to retire in year 2014 is 52. Following ban on promotions, re-designations and salary reviews as per circular Ref. CS/LWN/625/pnn/2014 dated 1<sup>st</sup> August 2014, the Department waits for the lift of the ban for it to be able to table its requests on recruitment of more staff. Mr. Speaker Sir, I beg to lay this response. Thank you.

**Hon Speaker:** Thank you, Chairperson Sectorial Committee on Legal Affairs. Apparently, it looks like most of our officers died in the same month, especially June and July. Hon Njoroge Kairu.

**Hon Member for Woodley/Kenyatta Golf Course** (Mr. David Njoroge Kairu): Asante Sana, Bwana Spika. Ripoti nimeipata, nimeielewa na wamejibu vile nilivyotaka, lakini ukiangalia idadi ya maafisa ambao wanakufa, tunaambiwa ya kwamba kwa Mwaka, wale afisa ambao wamekufa kwa miaka miwili iliyopita ni askari watimiao hamsini. Ni jambo la kushangaza kwa sababu barua ambayo tumepewa hapa, wanasema hawawezi kutuelezea, sababu inakua ni siri ya kifamilia. Ukiangalia maafisa ambao tuko nao, unakuta ya kwamba wengi afya yao inazidi kudhoofika na hatuwezi tukatakia watu mabaya lakini kama Kaunti, ni afueni kidogo tujaribu kuweka mikakati ambayo inastahili ili tujue kuwa ni mazingira ambayo ni duni kwa maafisa wetu, ni changamoto kwao.

Kama wanakufa kwa magonjwa ambayo tunaweza kuzuia tutafute njia ya kuelimisha ili tuwe na maafisa ambao wanaweza kufanya kazi. Hata kama wamesema hawawezi wakatuelezea, naona ni afueni kwa Kaunti yetu ama Bunge kupitia Kamati ya Sheria na Haki wajaribu kutafuta mikakati ya kuelimisha maafisa wetu na tujue ni kitu gani kinawadhuru. Kama ni mambo ambayo tunaweza kuzuia, tuweze kuzuia. Bwana Spika ukiangalia wale maafisa 60 ambao tumeambiwa wanastaafu mwaka huu, na ukiangalia yale majumu maafisa wetu wanafaa kuwa wanafanya katika Jiji letu la Nairobi, unakuta mambo mengi hayangaliwi na sababu kuu ni kwa sababu wale maafisa ambao tuko nao hawatoshi.

Kwa hivyo Bw. Spika nilikuwa naomba kupitia hii Nyumba yetu ya Mkutano, tujaribu kutafuta mikakati ambayo tutaweza kutumia hata kama hatutaajiri maafisa wapya, wachukue zile nafasi za wale maafisa ambao wanatoka. Tujaribu kuajiri ili huduma kwa wananchi wetu iweze kufikia kiwango kinachostahili. Nimeridhika na Ripoti nimeona lakini kusudi langu tu ni tutafute mikakati ambayo itazuia maafa zaidi. Ukienda katika jumba la Annex, utastaajabu; utadhani ni wakati wa uchaguzi. Kila mwezi mabango ni mengi mpaka unajiuliza ni za nini, ukifuatilia unasukia ni watu wanakufa, na ni kweli wanakufa na wengi ni wagongjwa. Idadi ya wafanyikazi tunayo haitoshi hata kufanya kazi ni shida kwao. Kwa hivyo naomba tu Bunge hii kupitia kamati ya Sheria wajaribu jinsi ya kuelimisha maafisa wetu na kama ni magonjwa ambayo tunaweza kuzuia tujaribu tuzuie, sababu ni manufaa kwetu. Asante, Bwana Spika.

**Hon. Speaker:** Thank you very much, Hon. Njoroge Kairu. What's it Hon. Ochola?

**Hon Member for Utalii** (Mr. Wilson Ongele Ochola): I have a statement to respond to.

**Hon. Speaker:** A request for statement requested by Hon. Ngaruiya Chege from the Chairperson of the Sectorial Committee on Labour and Social Welfare. Ngaruiya Chege!

**Hon Wilson Ongele Ochola:** Thank you, Mr. Speaker. I think even if he is not in, the report is for the House Mr. Speaker, or he must be there? I would like to know from you Mr. Speaker.

**Hon. Speaker:** Hon. Chairperson Labour, let us give Hon. Ngaruiya Chege an opportunity tomorrow. Thank you. Next

## MOTION

**Hon Nominated Member** (Petronilla Achieng): Thank you, Mr. Speaker Sir. I beg to move a Motion that this County Assembly adopts the Report of the Budget and Appropriations Committee on the considerations of the Report of the Controller of Budget on the County Budget Implementation third quarter fiscal year 2013-2014; laid on the Table of the Assembly on Tuesday 12<sup>th</sup> Aug 2014. I beg to move the following Motion; that this County Assembly adopts the Report of the Budget and Appropriation Committee on the consideration of the Report of the Controller of Budget on the County fiscal implementation 3<sup>rd</sup> Quarter for the fiscal year 2013-2014; tabled in the County Assembly on Tuesday 12<sup>th</sup> Aug 2014.

Based on the provisions of the article 228 (6) of the Constitution and section 39 (8) of the Public Finance Management Act 2012, the Report of the C.O.B for the 3<sup>rd</sup> quarter covering the period between July 2013 and March 2014, was laid on the of the Assembly on the 17<sup>th</sup> July 2014 and subsequently committed to the Budget and Appropriations Committee to consider and make a report to this Hon. Assembly, with any recommendations thereof in 14 days from the date of tabling. The report reviews the 3<sup>rd</sup> quarter 2013-2014 Budget for Nairobi City County which was to the tune of 25.2 billion out of which Kshs. 17.6 billion was meant to be directed towards recurrent expenses. However, it's imperative to note that this report is based on the original budget which had since been amended due to successful passage of the supplementary Appropriation Act 2014, sometime in this year. During the period under review, the County had managed to raise 14.3 billion shillings in revenue out of which Kshs: 6.5 billion was a direct transfer from the National Government.

The C.O.B notes that during this period, the total amount which had been released to the County in line with section 109 (6) of the Public Finance Management Act 2012 totaled to 7.2 billion. Materials breaches raised by the controller of Budget Report, this 3<sup>rd</sup> quarter report raised a number of material breaches that it alleged the County had committed during the period under review. This part of the Committee report will try to cover the specific issues raised in the C.O.B Report and highlight the observations of the Budget Committee.

### **1. IN THE MATTER OF FAILURE BY THE COUNTY TO COMPLY WITH THE CIRCULARS/DIRECTIVES FROM CONSTITUTIONAL COMMISSION AND INDEPENDENT OFFICES ON USE OF PUBLIC FINANCES IN THE COUNTY.**

The Budget Committee and indeed all Members appreciated the critical role played by the Commissions and independent offices that were set up by the Constitution and empowered to steward this ship called devolution. Their advice and guidance is at all times welcome since we all recognize that none of us is in competition with one another and further that we are all interested in performing our legal obligations in the best way we know how. However, Mr. Speaker Sir, there has been an alarming trend from these Commissions and independent offices that this County and indeed all counties must guard

themselves against. It remains the opinion of the Budget and Appropriation Committee that most of these officers have overstepped their mandates and resorted to performing duties without any legal underpinning.

The Budget Committee regrets that there are signs that the very institutions which were set up to protect devolution remain the greatest threat to devolved systems of Government. Indeed the Committee failed to comprehend the rationale for remitting the jurisdiction of some of these advisories to counties while letting the National Government; where there's a bulky of resources off the hook. This County as the center of devolution and the beacon of hope for its success must not allow itself to be cowed into submitting to officers and individuals that try to baby seat Counties thereby returning the very ill of big brother syndrome that we were trying to cure through devolution. Nairobi County remains open to all manner of advice but we must insist that the pieces of advice remain just.

The attention of the Committee was alarming drawn to the circular by the Commission of Revenue Allocation that purported to the set Budget sealing for the County Executives and County Assemblies. The Committee was hard pressed to understand the provisions of Law from which the Commission drew this power since this's neither enumerated in Article 216 of the Constitution nor the Public Finance Management Act 2012. In summary the Committee agrees with the decision of the County Assemblies forum and the Governors Council to obtain legal interpretation from the courts in some of these legal hurdles.

## **2. IN THE MATTER OF FAILURE BY THE COUNTY TO COMPLYING WITH SECTION 109 (2) OF THE PFM ACT.**

Section 109 (2) of the PFM Act 2012 provides that the County Treasury for each County government shall ensure that all money raised or received by or on behalf of the County Government is paid into the County Revenue Account Fund. The report extensively asserts that Nairobi County has been notorious for failing to transfer revenues collected by the County to the County Revenue Fund. This Assembly must not condone insensitiveness bridge of law by any County government entity and more so the County Treasury.

During the meeting with the Controller of Budget, the County Executive Member for Finance, the Budget Committee confirmed that the County Treasurer had indeed failed to comply with the mandatory provisions of this section of the Law. The report has recommended that the Cabinet Secretary for National Treasury should invoke the provisions of Article 225 (3) of the Constitution and section 96 of PFM Act 2012, which would culminate in stoppage of funds released to Nairobi County due to material breach of its financial obligations. This indeed would be a hefty price to pay due to negligence of a few officers who are reluctant to comply with basic requirements of the law. The Budget Committee is not ready to permit Nairobi County go down in history as the first County that has met the wrath of this statutory sanctions.

In this regard, the Budget Committee has insisted on the Controller of Budget to ensure that all revenues are swept into the County revenue fund and the Bank statements must be submitted to the Budget Committee on a monthly basis for perusal.

The Committee learned during these deliberations with the Controller of Budget and the County Executive Member of Finance that there have been great measures aimed at abiding with set provisions of the law. The CEC for Finance indeed informed the Committee that he had written to all Banks by the letter dated 12<sup>th</sup> June 2014, directing them to swipe all cash deposited to the County revenue account held at the Central Bank of Kenya. The Committee therefore came to the conclusion that enough measures have been put in place to correct the noted breach and hence would not be recommending any additional sanctions in this report.

Mr. Speaker, the Committee insists that no officer shall be indispensable in this mission of ensuring that we remain a law abiding County. Further, the Committee advised the Assembly to resolve that in case of failure to comply with the provisions of the PFM Act 2012, the relevant authorities should be invited to take action. It is important to record that section 199 of PFM Act dictates that; a person who is found guilty of committing an offence under the Act for which no other punishment is given, is liable to conviction not exceeding five years or a fine not exceeding 10 million or both. However, the formulators of the law were alive to the fact that there may be peculiar cases when it is not possible to transfer money to the County Revenue Fund before spending, hence the exemptions outlined in section 109 (2) (a), (b) and (c) of the PFM Act.

In this regard, the Committee has weighed in on the County Treasury to ensure that all money not payable to funds approved by this Assembly is paid to the County Revenue Fund until this County Assembly or National Parliament passes a law on the contrary.

### **3. IN THE MATTER OF EXCESS AMOUNTS PAID FOR MCA'S SITTING ALLOWANCE**

Mr. Speaker Sir, if there is any single matter in this entire report that has touched on the hearts of Hon. Members of this House; it is the issue of sitting allowances. It is indeed a dangerous precedence when officers that are anticipated to act with most decorum and highest level of competence resolve to populist moves that would only benefit the advocates of anti-devolution campaigns. During discussions on the Report, the Committee was informed that the office of the Clerk noted the erroneous figures and wrote to the office of the Controller of Budget with the correct figures for adding all documentation including integrated payroll and personnel database print out in a bid to set the record straight.

However, it was the submission of the Controller of Budget that the office had no legal mandate to receive reports directly from the Clerk of the County Assembly without passing through the County Treasury. The Committee while fully appreciating the provisions of section 104 of the PFM Act would have expected the Controller of Budget to counter-check the figures submitted by the County Treasury with the Assembly reports so as to ensure that the figures released to the public were beyond reproach. The Committee remains unconvinced that the COB is merely a robot that remains a stricter of rules at the expense of logic and common sense.

Mr. Speaker Sir, the County Executive Committee Member of the Finance clarified that there may have been an error on how the salaries and allowances for the County Assembly were classified in the

records submitted to the COB without breaking them down to various components of personnel emoluments. However, the Executive has since written to the office with the correct figures plus a plea that the office takes appropriate measures to correct the impression so far created.

Going forward, the Committee recommends that the County Treasury must ensure that any figures and matters relating to the County Assembly are scrutinized by the office of the Clerk before they are released to any external entities. The Committee would not permit negligence and lack of due diligence from any office to work to the treatment of this County Assembly and its Hon. Members. Further, the Committee has requested the County Budget Coordinator to take extra initiative and have annexes submissions from the office of the Clerk on any reports on Budget implementation relating to the County Assembly.

#### **4. IN THE MATTER OF FUNDS REQUISITION BY THE COUNTY TREASURY**

Mr. Speaker Sir, this Assembly has been greatly affected by intermittent cash flows by the County Treasury which has affected most of its undertakings. It is noted during deliberations on the Controller of Budget report that the County Treasury has not been religiously remitting to the County Assembly its rightful share out of the County Revenue basket. It was recorded that the County Treasury has been over zealous to requisition the funds in the name of the Assembly, only to relocate the same for other projects in the County Executive. The Committee was informed that the County Assembly has not been submitting its work plan to the Controller of Budget implying that requisitions for and on behalf of the County Assembly done by the County Treasury were abstract and not meant to help the Assembly finances in its core activities.

The Committee would not wish that this habit continues. Therefore, has persuaded the County Budget coordinator to approve only warrants that have been agreed upon between the County Treasury and the County Assembly. That notwithstanding, the County Treasury and the County Assembly are not in any competition and they have to work together towards ensuring the progress of this County. In this regard, the Committee recommends that;

- I. The County Treasury must at all times ensure that it transfers the Assembly shares to its account with all fidelity
- II. To ensure that all money released is spent as per the work plan and requisitions submitted

#### **RECOMMENDATIONS**

In summary and pursuant to the provisions of section 145 (5) of the PFM Act, the Committee recommends that the Assembly resolves as follows;

- I. The County Treasury must ensure that all future figures and any other matter touching on the County Assembly are reconciled with the office of the Clerk before they are released to the public or other governmental institutions

- II. The County Treasury must always release funds due to the County Assembly without any bureaucratic delays and wanton deductions and that such release must be based on the agreed ratio for sharing of revenue between the Assembly and the Executive, and work plan submitted by the County Assembly when the Exchequer release is due.
- III. The COB and the County Treasury must ensure that all funds meant for the County Assembly are deposited in the County Assembly account at the Central Bank
- IV. The County Treasury must henceforth ensure that all funds from local revenue are consistently swept into the County Revenue fund as required by law
- V. For monitoring purposes, the County Treasury must avail to the Assembly not later than 5<sup>th</sup> of the month a report together with the Bank statements of all the Bank accounts maintained by the County Treasurer indicating how much money has been received by the County Treasury from the local sources and how much has been swept into the County Revenue account. Mr. Speaker you must note that in the Nairobi City County we have 31 accounts.
- VI. In order to ensure transparency in the use of funds, the County Treasury must ensure that all payments are made through the IFMIS platform.
- VII. All longstanding imprest should be accounted for with officers who have not surrendered imprest held accountable for withholding public funds and put in a list of shame.

Mr. Speaker Sir, it is therefore my pleasant duty and privilege, on behalf of the Budget and Appropriation Committee to table this Report and recommend it to this Assembly for adoption. I would like to ask Hon. Samuel Irungu to come and second this Motion. I beg to lay.

*(Applause)*

**Member for Komarock Ward** (Hon. Samuel Irungu Mwangi): Mr. Speaker, with your indulgence, allow me before I second this Report of the Budget and Appropriations Committee to just make a small personal statement. That arising from what has happened in the print and electronic media.

**Hon. Speaker:** Hon. Member. Order! That is a personal statement and I wish you would have done it the normal way of bringing it through the Speaker's office. You can do that tomorrow.

**Hon. Samuel Irungu Mwangi:** I oblige Mr. Speaker. I will make the Statement tomorrow. I wish to second this important Report because the inaccurate reporting of the Controller of Budget has really cast aspersions on the character of Hon. Members. Whereas oversight is mandatory in the new dispensation, it should also be done with a lot of care, responsibility and without intention to dent the institution of County Assemblies. It was alarming that we heard from the print and electronic media that we earn allowances amounting to 296. The implication on the ground is that when a Hon. Member; whether Special or Elected is invited for a fundraiser or a social function, it is now mandatory to attend. It becomes a crime when you do not attend because they say you are earning a lot of allowances without going into the details of what the report entails.

Mr. Speaker you do recall that it was said that we have foreign travels and whenever you visit people will clap and say *wale ambao wanasafiri*. In future, we as the budget Committee are recommending that the Controller of Budget scrutinizes the records, consult the office of the Clerk and the Speaker so that whatever is relayed to the public is correct and factual. With those few remarks, I beg to second.

**Hon. Speaker:** Thank you very much Hon. Irungu. It is true you have spoken like 90 men. Hon. Members I propose the question that this County Assembly adopts the report of the Budget and Appropriation Committee on the consideration of the report of the Controller of Budget or the County Budget implementation third quarter fiscal year 2013/ 2014 laid on the table of the Assembly on Tuesday 12<sup>th</sup> August, 2014. Hon. Members. Hon. Elkana.

**Hon Member for Kwa Reuben** (Mr. Elkana Mauti): Thank you, Mr. Speaker. I think this is a very good report that this Committee has come up with. I think this is where we have problems. As you have heard, it is a struggle for the County Assembly to receive its money from the County Treasury. This is why even our parcels have not been submitted. In collection of the revenue, they don't even deposit to where it is needed. It is very wonderful that we have 31 accounts in this Assembly. For what? And it stipulates very clearly---

**Hon. Speaker:** Oder! Not Assembly.

**Hon. Elkana Mauti:** In the County.

**Hon. Speaker:** Yes.

**Hon. Elkana Mauti:** 31 accounts. We are worried, 31 accounts for what? And the law is very clear that we should have four accounts and the Emergency Account. The Emergency Account has been opened and working without the approval of the Assembly. You have heard that there are so many issues. The IFMIS system which is supposed to start working, our Executive is not willing to start working with IFMIS system. Up to now, people have up to Kshs 9 million imprest to surrender and this is the money which we have been given to go and do a,b,c for the County and you don't even come back with the returns. This is what we call "Can you account for?"

Mr. Speaker Sir, it is a high time for the Members to open their eyes, this why even the Public Accounts Report has been hidden. This is what is inside because the revenue that we collect from our sources does not go to the Revenue Account. I think, if possible, we could have been informed the 31 accounts are for what and what so that we know if it is the account for shoes, for revenue etc so that when we as the representatives of Nairobians or of this County go out and are asked why we have 31 accounts.

You have heard that we have problems and struggles for this Assembly; which means we are not. Maybe as individuals, we can say that we are not even recognized that we are there as the Assembly of Nairobi because there is our share. If the Clerk is not given our share, we are telling him we want our mortgage, we want our parcels but then you realize that the share which was supposed to be given to the

Assembly has not even been submitted. So, we have been having tug of war but the Executive side is trying to fail this Assembly.

I am ready to support this report. Two, I would like the Budget Committee to also bring us the report on these accounts. We would like to know how much each account is holding, who the signatories are, and when these accounts were opened and for what reason. After transition, the regulations scheme, we are supposed to have only four accounts. If any, it should be approved by the Assembly of Nairobi on top of the four accounts but they have not done so. They have come with 31 accounts. Is that violation of law? I don't know. But the law says that that is a violation of the law. So, we want a thorough investigation into this. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Elkana. Hon. Alex Otieno.

**Hon. Member for Mugumoini Ward** (Mr. Alex Ouda Otieno): Thank you, Mr. Speaker Sir. I am here to support the Report from the Budget Committee. This is a very good Report and it touches on all areas affecting us as Hon. Members. The Report has touched on what came out in the media that Hon. Members are getting 296 and yet the maximum that a Member can get is about 280. And all these circulars guiding us are coming from these offices. Actually, we, as Members, or as the County, who is doing a negative job? If these circulars that are guiding us are coming from these offices and before one writes anything, he is supposed to refer to the circulars that he has given out. To know the maximum, even a standard 7 student can even come up with a figure that if a maximum a Member can get is 208, how comes that it is two ninety something.

In my own opinion, I tend to think that this Report must have come from the County offices without checking with the office of the Clerk of the County Assembly. This should not be allowed to continue, let us not be misused. People can just wake up, start talking, saying anything, doing what, just to smear us with mud. Right now, I have about 12 *harambees* and sometimes when I enter anywhere, you will see people saying: "you people! Look how you are healthy. You keep on flying. You don't even use your salary. You only use allowances. Sitting allowances and also flying allowances".

As the Nairobi County, we should not allow this to happen. We are the city and we are the pace-setters. We should set the pace and through your office. We do agree that you are doing us a good job, you are protecting us and keep on protecting us. Some of these reports that are coming are damaging us before our people. So, Mr. Speaker, I would like to take this opportunity again to thank the Committee. In fact, I think there some other areas the lady needed to read with a loud voice so that it can be heard from wherever those people are. With those few remarks, I support the Report and thank the Budget Committee.

**Hon. Speaker:** Thank you very much Chairperson for Water. Just for some clarification or for information. Hon. Members, what the Chairperson has just said, the Report that went to the Controller of Budget was part of a smear campaign against the Honorable Members of the County Assembly of Nairobi. Why do I say that? I say this because the Clerk of the County Assembly of Nairobi wrote several letters to the Commissioner of Budget but we never got a reply. I wrote until most of you, Members, saw me put our

case in the newspapers. This was in regard to the allowances and salaries of Members. This was done by the County Executive, Finance. They are the ones who sent that erroneous message to the Commissioner of Budget and that is where she keeps on and on referring to the County Assembly of Nairobi's allowances.

Actually, Hon. Members, she lumped up the salaries and allowances together. That is where she got whatever she placed in the papers. Therefore, in future, before the Executive send letters to the Commissioner of Budget, the letters must come to the office of the Speaker so that we can see what they are sending. Therefore, Hon. Members, I bear with you. The language that is outside there is as a result of that message that came from the Executive Member for Finance. Even the issue of travelling, you have seen that Nairobi has not been lumped up into the wrong books. How many are we? 127. Including the speaker, 128, including the Clerk, 129. We will continue travelling as long as our budgets are approved.

*(Applause)*

We will travel locally and internationally as long as our budget is approved by the same person who goes again and paint on the other side that they want to. Thank you, Members. Hon. K'Otieno.

**Hon. Member for Sarangombe** (Mr. Pius Owino Otieno): Thank you, Mr. Speaker for this opportunity. Indeed, I wish to commend the Committee of Budget and Appropriation for the good job that they have done. Secondly, I begin this debate by reminding the Independent Commission, rather the Commission that has been anchored in the Constitution that their job is not to superintend over the County Assemblies because County Assemblies are independent institutions and they are institutions that have been anchored in the Constitution. It is quite unfortunate for us to realize that the Commission for Revenue Allocation went ahead and set budgets for County Assemblies and the Executive which is quite contrary to what the law stipulates.

It is terribly unlawful, shameful and the entire matter has even generated heat between the Senate and the National Assembly, monies cannot be transferred from the exchequer to the various 47 County governments. The other day, all newspapers had been running information and different messages that County governments cannot even pay the salaries of doctors; not that the County governments cannot pay this, the money coming from the exchequer is not coming at the right time to facilitate the payment of salaries of health personnel.

Mr. Speaker, it is important for us to remind the County Executive of Nairobi that if we are the ones who crafted these laws or if we have been elected to craft these laws or there are laws that were crafted by the National Assembly and hence they are being used by this House, those laws must be respected to the spirit and to the later. In cases where it has been clearly demonstrated in the report that the County Executive is not complying with the Public Finance Management Act of 2012, then it is important that this House sanctions them so that members of the public and even members of any other commission would know that we are not going to bed with these Governors.

There has been a spirited campaign outside there that Governors are buying MCAs. It is also fortunate that we Members of Nairobi County Assembly have not been on the receiving end but it is very unfortunate that if the CEC in charge of Finance cannot comply with the statutes that have been passed by the National Assembly. We should not be ready to be blacklisted as Assembly or County that is not observant or is not complying with the law but we should be recorded as County Assembly that is complying with the very laws that have been passed by the Assemblies or Senate or the National Assembly.

Secondly, in compliance with these statutory laws, I would urge the Public Accounts Committee, the Public Investment Committee and the Budget and Appropriation Committee to have a joint session so that they can fast track and come up with necessary tools that are going to enable us or assure us or even facilitate us in the budget tracking process. It is unfortunate that the other day we passed the Finance estimate but up to date I expected the CEC Member in charge of Finance to furnish this House with a database showing clearly that in these 85 Wards, Ward number 1 has been allocated this much, Ward number two has been allocated this much in terms of environment, in terms of waters, in terms of trade, in terms of roads, in terms of public transport, but so far they have not taken their time to furnish this House from Ward number 1 to Ward number 85 in all the 17 constituencies so far, they are concerned with the projects and programs they want to implement in our Wards.

It is unfortunate and we should not let them go away with this because the more we let them go away with this, the much pressure is building on us back at our Wards. Mr. Speaker the report on Controller of Budget, in my own opinion, was a crafty work of some intelligence who wanted to divert people's attention from real problems and myriad challenges that is facing the country at large that they could pile those pressures on the Governors. If you even go through page one, it is not unfortunate to us because of the reality that 25.2 billion out of which 17.6 billion was meant to be directed towards recurrent expenditures. That is quite a huge chunk of money; it is huge because Nairobi County has the biggest workforce in the country and when we are left with a paltry 8 billion. This one cannot do much and it is also in this regard that I urge Members; if 17.6 billion is going towards the recurrent expenditure, we are only left with 8 billion. This one calls for additional funds so that if development is to trickle to these Wards then this money has to be added from any process or from any activity.

I know in the coming future, we shall be discussing about the referendum and I will be urging this Assembly, whether it will be a referendum that is being sponsored by the Governors, whether it is a national referendum that will be sponsored by the people of Kenya, I will be urging this House to kindly support; even if you will be on the other side or on the other divide of politics, it will be important that you support it. It is still my chance (*interruptions*), and this referendum is coming whether you like it or not (*interruptions*). Mr. Speaker, protect me, I still have 15 minutes.....

**Hon Speaker:** Order Hon Member! Talk about the appropriation.

**Hon Pius Owino Otieno:** Thank you, Mr. Speaker. In my community sometimes they say you just throw a stone for you to know the kind of animals that are in the bush and indeed I have seen. I was only trying so that when that debate comes, I will actually know who is for it and who is not for it but it will see light of the day. Thank you, Mr. Speaker.

**Hon Speaker:** Order Hon Members!

*(Hon. Speaker exits, Hon James Mwaura Chege takes the chair)*

**Hon Temporary Deputy Speaker** (Mr. James Mwaura Chege): Proceed.

**Hon Majority Chief Whip** (Hon David Mberia): Mr. Speaker, I rise to support the Motion. First, let me appreciate the Committee on Budget and Appropriation for job well done. Secondly, the Committee has noted with regret that some of these commissions have overstepped their mandate, they are babysitting County governments. The Committee on Budget has noted that since the inception of this County Government, the County Treasury has not been depositing any money in the County Revenue Accounts. I would like to know from the Committee, where was this money deposited? This money according to the PFM Act is supposed to be deposited in the County Revenue Account. They recommended that this money should be deposited in this account. What if the County Executive or County Treasury fails to do so Mr. Speaker? We would like to know the consequences of the same.

Mr. Speaker, I also appreciate the position taken by the Speaker's forum and the Council of Governors. Of course it has borne fruits because the courts have directed the National Treasury to release at least 50% of the funds allocated to Counties. The last one, the COB and the County Treasury must ensure that all the funds meant for the County Assembly are deposited to the County Assembly Account at the Central Bank. We have been singing this song since we came to this Assembly that the money meant for the County Assembly must be independent from that of County Executive. Now the Committee has recommended the same. Now what if the County Treasury fails to deposit this amount? What are the repercussions and the consequences?

We need respect; we are two arms of the government; the Executive and the County Legislature. So the County Assembly account must be independent from the Executive Account. The last one, Mr. Speaker, for monitoring purpose, the County Treasury must avail the County Assembly not later than 5<sup>th</sup> of every month, a report together with bank statements of all the bank accounts maintained by County Treasury indicating how much money has been received by the County Treasury from local sources and how much has been spent or swept into the County revenue fund.

Fifth of every month, the County Treasury must avail all the receipts and all the statements to the Committee and the Committee must take the same to this Assembly. What about if the same fails? We must have teeth to bite because we have been singing songs, some people have been dancing with us but this time round we want to bite, we want the teeth to bite. Every fifth of every month we need statements tabled in this House for perusal and otherwise. Thank you, Mr. Speaker.

**Hon Temporary Deputy Speaker:** Very informative contribution from the Whip, thank you. Hon Kamau.

**Hon Member for Karura Ward** (Hon Stephen Kamau Thuo): Thank you Hon Speaker. I will be so brief because most of the issues that I wanted to highlight on, my good friends or colleagues have touched on them. Mr. Speaker I want to highlight on the issue of IFMIS, this is a platform that when it is fully implemented, it can bring sanity as far as use of funds in this County is concerned. It will bring sanity in the financial management of this County but we also understand the Executive and in particular the Treasury Department is not willing to implement this particular platform.

So am urging the Budget Committee to ensure that this particular platform is implemented in our County operations so that these issues of suppliers harassing Members to be helped to do one, two, three come to an end. But we understand that the Treasury is not willing to do that but I believe through the Budget Committee, we can bring the Treasury Department to task and implement this particular platform to all departments of this County Government.

The other issue is that of the bank statement. I want to believe that by September 5<sup>th</sup>, this House will be furnished with all the statements for perusal. I will come before this House, Mr. Speaker, probably tomorrow or next week to also seek for all those other statements since the County Government of Nairobi came into operation; so that we can go through them and probably seal loopholes and also do some recommendations.

Lastly Mr. Speaker, I would want to touch on the County Assembly. The County Executive must be told that the County Assembly is not a younger brother of this Government called the Government of Nairobi. It is an equal entity of Nairobi County Government and so we need respect as far as the allocation and disbursement of funds is concerned. It is unfortunate that the office of the Clerk of this County Assembly has been reduced to a debt collector; that should come to an end. As an Assembly, we should have an independent account; we should have freedom on when we want to use our funds and not to go knocking to the Executive to disburse or to raise our funds.

You understand that many operations and activities of this Assembly or programs that should be rolled out to empower these Members and to build capacity as far as Members of this County Assembly are concerned cannot be done in time because our monies are always delayed by the executive. Even if it requires this Assembly coming up with a Motion to force the County Executive to have an independent account of the Assembly, we are going to do that because at the end of the day we are an independent entity.

In conclusion Mr. Speaker, I believe that these recommendations will be implemented and that the County Implementation Committee will ensure that all of the recommendations that are here will be implemented. I am calling upon the Chair of that particular Committee which is a very important Committee. I want to believe that this time round that Committee will not fail this Hon. House. Whoever is holding brief for the Chairman of that Committee... and I am sure Hon. Mberia can pass this message to the Hon.

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Chairman of that Committee that this time round, they cannot afford to fail this House. With those few remarks Mr. Speaker, I support the implementation of this report. Thank you.

**Hon. Temporary Deputy Speaker:** The Deputy Chair Budget.

**Hon. Member for Hospital Ward** (Mr. George Ochieng Ochola): Thank you Mr. Speaker. Notwithstanding all that has been thoroughly sited from the report, I stand to second. I want to say that the Controller of the Budget is one of the constitutional office born as a result of the promulgation of the Constitution of Kenya in 2010 and this office truly has done a good job. Their work is to oversee the implementation of National and County budget and the prudent utilization of the public funds. Mr. Speaker, I want to reiterate that, it is from this COB which we happen to realize when we were at Lukenya that the Treasury office did use some funds at source without banking them.

Truly speaking, the COB, if we see or go by the budget making, the COB has always been very keen to make sure that our budgets are within bracket of the CIDP program based budget and also in line with PSM mark and the ceilings which were set aside Mr. Speaker.

The other time, the issue of Members of this Assembly went round the corners, went round the media and we did realize that somehow, and we even said in our Committee that some members from the Treasury were supposed to be taken for induction so that they can know their role. What led to this was that instead of considering the supplementary budget which we again passed after we had done our budget the Finance Bill, they went with their own figures without consulting the Office of the Clerk of the Assembly. Mr. Speaker, if you go by the recommendation No. 1, and we have said that the County Treasury must ensure that all future figures and all other matters touching on the County Assembly are reconciled with the Office of the Clerk before being released to the public or other governmental institutions.

I want to say that the Committee of Budget is now very serious and they are going to take the County Treasury head on. This includes the CEC members because what they did to us was not pleasing but defamation and yet it is this Assembly which I can say employed them. Instead of following the rules and procedures, they went against what is expected of them. Therefore, Mr. Speaker, the recommendation that the Committee of the Budget reached stands and it will work as we have cited them in our Report and therefore, I beg to support this Motion. Thank you.

**Hon. Temporary Deputy Speaker:** Thank you, I thought you were the substantive mover but I call the mover to reply.

**Hon. Nominated Member** (Ms. Petronilla Achieng): Thank you Mr. Speaker, I want to thank the Hon. Members for the lively contribution and I want to assure the Members that we are committed in the implementation of this document. We will follow it to the letter. We also want to thank the Members for having identified the issues that are disturbing this Assembly and I want to urge our Clerk not to be cowed

by the Executive. You need to move very fast and give us report, we will take the Executive head on and we do not care whether we will meet them along the way. But what is there, you have up to now, Members who are supposed to be leaving in 2017 have not even received their mortgage. This is because the Executive is spending the money at source and not giving us our rightful share. Thank you Mr. Speaker Sir.

*(Question put and agreed to)*

**Hon. Temporary Deputy Speaker:** Hon Members, there being no any other business pending, I would like to make two announcements; one that the House Business Committee will meet at the rise of the House and secondly, there will be a Speaker's Kamukunji tomorrow, 20<sup>th</sup> of August 2014 at 11 a.m. here at the Assembly. The meeting is called by the Chairman of the Water and Sanitation to discuss among others, issues relating to that docket.

***The House rose at 4.19 p.m.***