



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fourth Session

Thursday 2nd April 2020

The House met at 2.30 p.m.

Hon Speaker (Ms. Beatrice Elachi) in the Chair

PRAYERS

COMMUNICATION FROM THE CHAIR

SPECIAL SITTING OF 2ND APRIL 2020

Hon. Speaker: Hon. Members, let me take this opportunity to welcome you to this unprecedented Special Sitting of the Nairobi City County Assembly. I thank you for availing yourselves despite the risks associated with the current COVID-19 pandemic the Country and the entire world is currently facing. Indeed, Hon. Members, you will recall that on Monday 16th March 2020, the Assembly Business Committee took unprecedented action and resolved that this Assembly be adjourned to avoid exposing Members and Staff to the dreaded virus. It was however communicated to you that whenever a compelling need would arise, the Assembly would be convened and that stringent sanitary measures would be put in place during such sitting.

Accordingly, Hon. Members, the County Assembly through the Office of the Clerk, prior to this Special Sitting, has put in place necessary preventive measures including fumigating the entire precincts, installing sanitizers at various points in the precincts, suspending the use of Biometric System, ensuring adequate spacing in the chamber, providing masks and hand gloves to all Members and staff, urging our **senior Members who are elderly to be excused from today's sitting and enforcing the social distance. Indeed, as you were informed by the Clerk, today's sitting shall be attended by only 42 Members at any given time and admittance to the Chamber has been on a first come first serve basis with a priority to the Assembly Leadership and Members of the Finance, Budget and Appropriations Committee due to the nature of business ahead of us. I therefore urge you to continue cooperating with the Serjeant-at-arms until the conclusion of this sitting.**

Consequently, Hon. Members, the National Government has continued to advise us on measures and actions we need to uphold to suppress the spread of the virus. As your Speaker, I will still reiterate to you that you faithfully embrace these guidelines and sensitize your constituents on the same using any available forum. Some of these preventive measures may appear obvious but they are quite significant in combating this pandemic. They include but not limited to; -

- i) Washing hands regularly with soap and running water or using an alcoholic-based hand sanitizer;
- ii) Coughing or sneezing into a disposable tissue or a bent elbow, and washing of hands immediately;
- iii) Maintaining a social distance of 2 Meters (6 Feet);
- iv) Avoiding shaking of hand; and
- v) Making sure that we are all at our homes between 7.00 pm and 5.00 am in line with the Presidential Directive on the National curfew.

BUSINESS FOR CONSIDERATION DURING THIS SPECIAL SITTING

Hon. Members, today's sitting has been convened following a request by the Leader of the Majority Party pursuant to the provisions of Standing Order No. 30 (3) and the publication of Gazette Notice No. 2792 dated 1st April 2020, to consider the following Business; -

- i) The Nairobi City County Supplementary Appropriation Bill, 2020 (Assembly Bill No.1 of 2020);
- ii) To accede to the designation of an AIE holder of the Nairobi Metropolitan Services; and
- iii) To consent with the re-alignment and codification of County personnel seconded to the National Government under the purview of the Nairobi Metropolitan Services.

Hon. Members, as you may notice, and without attempting to pre-empt debate, the business at hand relates to mitigating the effects of the COVID-19 pandemic particularly through the proposed Supplementary Appropriation Bill, 2020 and also to allow for the effective functioning of the Nairobi Metropolitan Services which is an entity established by H.E. the President to implement fundamental County functions transferred to the National Government namely; *County Health Services, County Transport Services, County Planning, and Development Services and County Public Works, Utilities and Ancillary Services.*

Hon. Members, for purpose of clarity, the Ancillary Services equally transferred to the National Government are the services intended to complement or support the primary functions transferred. Such Ancillary Services includes; -

- i) Part of ICT functions,
- ii) Accounting Services,
- iii) Economic Planning; and,
- iv) the entire Inspectorate Services.

Hon. Members, you will agree with me that for the Nairobi Metropolitan Service to effectively execute the transferred functions, the aforementioned supplementary services should be aligned with the transferred functions and its funding considered accordingly.

Hon. Members, the Chair wishes to remind you of the provisions of Standing Order No. 30 (4) which **provides that, and I quote;** *“Whenever the County Assembly meets for a special sitting, the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the ONLY BUSINESS before the County Assembly during the special sitting, following which the County Assembly shall stand adjourned until the day appointed in the County Assembly calendar.*

Equally, Hon. Members, in compliance with the Gazette Notice No. 33 on the Public Order (State Curfew) Variation Order, 2020 issued by the Cabinet Secretary for Interior and Coordination of National Government, this Assembly must adjourn at 4.00 pm. I therefore advise that we execute the business before us in the shortest time possible.

REMOVAL OF ILLEGAL CONTAINERS

As I conclude Hon. Members, the Office of the Speaker is in receipt of a letter Ref: CAB/NMS/DG/2/2020 dated 30th March 2020 from the Director General, Nairobi Metropolitan Services, Major General Mohammed Abdalla Badi, EBS addressed to the Nairobi Regional Coordinator regarding illegal containers placed on Road reserves in various parts of the County.

Hon. Member, in the said letter, the Director General noted that a number of containers purporting to be from Nairobi County had been illegally placed on road reserves and used as business Premises. As such, the Director General has directed that all illegal structures without valid Temporary Occupation License shall be removed within seven days from the date of the said letter. As such, the chair wishes to request all Members to cooperate and support the Nairobi Metropolitan Service in the restoration of our great County.

You are so guided!

I thank you, Hon. Members.

(Loud consultations)

Order, order. Are you the owners of the containers?

Hon Members: Yes!

Hon. Speaker: Then it is very unfortunate. And you are shouting and you're on live TV? So you decided to use your powers to do that. He has said those who don't have a temporary license but it is **unfortunate if the leaders... you will have to go and discuss with the Director General...**

PAPERS

Hon. Robert Mbatia: Thank you Madam Speaker, before I lay paper I wish to state the following. That the county fiscal strategy paper for the financial year 2020/2021 was submitted and laid on the county assembly pursuant to provision of Standing Order 117(1) of the PFM Act 2012 on Tuesday 3rd March 2020 for scrutiny and reporting to the county assembly by the 15th of March.

Madam Speaker as you are aware this assembly was adjourned before that date due to COVID 19 pandemic. To this regard on behalf of the committee, I kindly request that you grant us an extension until we return to the state of normalcy for us to table our report. This will enable us to finalize our report and sectors to submit to us and do public participation. I wish to request for that.

Hon. Speaker: Chair, does this in any way affect our timelines because I am worried, you realize the National Assembly is coming back on 8th April to proceed with the budget. Does it affect our timelines because if it does then I would rather allow you to see how you will use the chamber and finalize but I know public participation will have an issue. But one week can justify because of COVID.

Hon. Robert Mbatia: Thank you Madam Speaker, the state that we are in is that once the document was committed to this house it was also committed to the sectoral committees. The sectoral committees are still dealing with it and on public participation, at this point, we had asked we have it on 23rd and a notice was put on newspapers but people submitted through written submissions so that one is done. It is still at sectoral so they need to meet before they submit. Meanwhile, for now, I do not think we are so stretched on time. So we can hold it for a while.

Hon. Robert Mbatia: Thank you, Madam Speake, pursuant to standing order 191 I beg to lay the following paper on the table of this Assembly today Thursday 2nd April 2020. This being the 22nd report of Select Committee on County Finance Budget and Appropriation on the Nairobi City County Supplementary budget Assembly Bill No. 2 of 2020 I beg to lay. Thank you.

NOTICES OF MOTION

ACCEDING TO THE DESIGNATION OF AN AIE HOLDER OF THE NAIROBI METROPOLITAN SERVICES

Hon. Charles Thuo: Thank you, Hon. Speaker, I beg to give notice to the following motion that, aware that, following the execution of the Deed of Transfer of Functions from the County Government to the National Government and the Addendum thereon, H.E the President, Uhuru Muigai Kenyatta established the Nairobi Metropolitan Services (NMS) as an entity responsible for the implementation of the transferred functions,

Further aware, that, for NMS to fund its activities shall draw funds from both the Consolidated Fund and the County Revenue Fund as provided for under Article 5 of the Deed; this Assembly expresses its agreement and accedes to the designation of one Enosh Onyango Momanyi as an AIE holder for the Nairobi Metropolitan Services.

(Applause)

CONSENTING WITH REALIGNMENT, CODIFICATION AND RANKING OF SECONDED COUNTY PERSONNEL TO THE NATIONAL GOVERNMENT

Hon. Charles Thuo: Hon. Speaker, I beg to give notice to the following motion that, aware that, Article 187 of the Constitution, 2010 and Section 24 of the Intergovernmental Relations Act, 2012 allows for the transfer of functions and powers from one level of Government to another;

Further aware, that, on 25th February 2020, an agreement was entered between the National Government and the County Government of Nairobi City transferring some of the functions of the County Government namely; County Health Services, County Transport Services, County Planning, and Development Services and County Public Works, Utilities and Ancillary Services to the National Government.

Further aware, that, pursuant to Article 5 of the Deed of Transfer of Functions Human Resource responsible for the implementation of the transferred functions shall be seconded from the County Government to the National Government,

Cognizant of the fact, that, the affected County Staff have already been handed over to the Nairobi Metropolitan Services which is the implementing entity of the transferred functions, this Assembly consents with the secondment of County Staff to the National Government and further agrees with the codification, realignment, and ranking of the seconded staff by the Nairobi Metropolitan Services and the Public Service Commission.

BILL

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2020 (ASSEMBLY BILL No.1 OF 2020)

(First Reading)

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2020 (ASSEMBLY BILL NO. 1 OF 2020)

(Second Reading)

Hon. Robert Mbatia: Thank you Madam Speaker, I beg to move that this Assembly reads the Nairobi City County Supplementary budget Appropriations 2 the second time.

Madam Speaker, once in each year the County Assembly is called upon to consider and approve the annual estimates of revenues and expenditures not only as a statutory duty but as gatekeepers of the County's public purse. Further and to ensure that approved budgets are responsive to changing dynamics, the underpinning legislation has granted latitude for the County Government to prepare and submit any amendments to approved budgets to the County Assembly for consideration and approval.

Madam Speaker, in the submitted supplementary estimates for the FY 2019-20 it had retained the total County Budget at Kshs.36.98 billion with the revised recurrent budget standing at Kshs.27.95 billion while the revised development budget stood at Kshs.9.03 billion. With that allocation, there was a proposed increase in the recurrent budget by Kshs.2.2 billion with the development budget projected to reduce by a similar amount.

Madam Speaker, the first supplementary estimates had been submitted to provide the basis for payment of pending bills that were audited by the Office of the Auditor General (OAG). The OAG picked up the work had by the Pending Bills Committee, which in its report had found that there were 839 legitimate claims representing a total of Kshs.11.4 billion. In its report, the Pending Bills Committee also noted that there were 174 claims representing a total of Kshs.6.1 billion, which were not recommended for payment due to various reasons ranging from lack of authenticity, lack of supporting documents among other reasons.

On their part, the OAG found that there was a total of Kshs.23 billion worth of pending bills as at 30th June 2018. Further, the office noted that the outstanding eligible bills as at 15th February 2019 stood at Kshs.10.8 billion while ineligible bills amounted to Kshs.11.3 billion.

The commitment and desire to settle pending bills are in line with His Excellency the President directive that Counties should set aside resources for settling of pending bills that are devoid of audit queries. This supplementary budget, therefore, aims to provide resources to the tune of Kshs.2.825 billion for settling of part of the recurrent pending bills and Kshs.859 million for settlement of part of the pending bills owed to development contractors. To make resources available for these payments, reallocations had been done across various votes in line with the provisions of Section 135 and 154 of the PFM Act 2012.

Madam Speaker, since the passage of the report of the Finance, Budget and Appropriations Committee on the Supplementary Estimates for the FY 2019-20 there have a number of changes that have occurred on the management and administration of County affairs. Key among these changes is that subject to the Deed of Transfer of Functions from the Nairobi City County Government to the National Government, a number of key functions are now under the control of the National Government.

Effective 17th of March 2020 the Nairobi City County Government relinquished its control over County Health Services, County Planning and Development Services, County Transport Services, County Public Works and ancillary services. In line with the provisions of Article 187 of the Constitution, the County budget therefore had to be adjusted in a manner that is alive to these changing times. Of note is that the delivery unit of the functions now falls squarely within the armpit of the Nairobi Metropolitan Services (NMS) under the stewardship of the Director General.

Conservative estimation of the cost of the transferred functions excluding shared services indicate that the County would require to transfer with the functions an amount not less than Kshs.15billion. However, the Finance Committee has also considered the budget structure and noted that the functions may not be properly implemented unless the part of the activities related to procurement, audit, inspectorate, sub-county administration, ICT, public finance management and human resources are also adequately costed and requisite resources transferred to the NMS.

Madam Speaker, to address the unique opportunities brought about by the Nairobi Metropolitan Services the Committee has considered the approved budget and aligned the Bill to the unique requirements of the new regime. Specifically, the Committee has proposed that the budgets for the transferred functions be retained at the figures approved in the annual estimates and to contribute to the contemporary pandemic that has threatened humanity, the Committee shall be proposing enhanced allocation for an emergency fund.

Madam Speaker, in this regard therefore, the Committee shall be proposing a number of amendments on the budget for the FY 2019-20 and this Supplementary Appropriations Bill as a way of cementing these proposed changes in the law. Overall, the total allocation for payment of pending bills is projected to be lower than the figure proposed in the tabled supplementary budget above. The total recurrent budget for the FY standing at Kshs.27.4 billion while the development budget stands at Kshs.9.6 billion.

The County Assembly budget is projected to stand at Kshs.1.454 billion with the development budget reduced by Kshs.1.485 billion. The amounts rationalized are anticipated to be utilized for the primary purpose in the FY 2020-21.

RECOMMENDATIONS

Madam Speaker, having reviewed the Supplementary Appropriations Bill, 2020 the Committee recommends that the following adjustments be made in the approved budget for the FY 2019-20: -

- 1) That the adjustments on the overall budget be approved as in Schedule I.
- 2) That all payments of salaries for the staff of the Nairobi City County Government excluding the Nairobi City County Assembly be undertaken by the Public Service Commission for the next **three months to enable clean up and reorganization of the County's payroll in line** with the Transfer of Functions.

(Applause)

- 3) **To support the Government's effort on the fight against the COVID-19 pandemic** the County Assembly has allocated Kshs.1.025 billion as follows:

- a) Kshs.85 million for Ward-based interventions at Kshs.1million per ward for provision of hand sanitizers, masks, and other related paraphernalia; and

(Applause)

- b) Kshs.940 million be allocated through the Emergency Fund for general health interventions related to the pandemic.

(Applause)

- 4) To provide the above resources the following amendments have been effected in the budget in line with the attached Schedule II:

- a) The recurrent allocation for the General Administration and Support services programme under the Office of the Governor and the Deputy Governor has been reduced by Kshs. 98 million;

(Applause)

- b) The recurrent allocation for Security and Safety Management programme under Office of the Governor has been reduced by Kshs.40 million;

(Applause)

- c) The recurrent allocation for Disaster Management Coordination under the Office of the Governor be reduced by Kshs.6 5million;

(Applause)

- d) The development allocation for Information and Communication Services under ICT has been reduced by Kshs.90 million;

(Applause)

- e) The development allocation for Public Finance Management under the Finance and Economic Planning has been reduced by Kshs.52 million;

(Applause)

- f) That the development allocation for Public Finance Management under Finance and Economic Planning be reduced by Kshs.170 million;

(Applause)

- g) The recurrent allocation for General Administration and Support Services under the Education Sector be reduced by Kshs.50 million;

(Applause)

- h) The development allocation for Wards Development Fund be reduced by Kshs.180 million.

(Applause)

- i) The recurrent allocation for Ward development has been reduced by Kshs.30 million.

(Applause)

- 5) To provide clarity on the funding of the transferred functions and those that remain with the County Government, the Bill be amended by reorganizing the Vote Codes and their related Service or Purpose, Supply Appropriations in Aid as provided in Schedule II (No. 3).

It is important to clarify that the ancillary services necessary for the performance of the transferred functions have been allocated commensurate resources under the Nairobi Metropolitan Services as required by the Deed of Transfer of Functions from the Nairobi City County Government to the National Government. The said ancillary services include the following: -

- a) Security and Safety including Inspectorate, Investigations and disaster management
- b) Information and Communication Services
- c) Public Finance Management
- d) Public Service Transformation
- e) Emergency Services

Madam Speaker, as I finish because of time since I had a lot to unpack the Supplementary Budget, but as I finish I beg to move and request our Minority Whip to Second me. Thank you. Madam Speaker.

Hon. Speaker: Anyone who is in the Chamber remember we left others outside. Therefore, you cannot walk out of the Chamber as Hon. Warutere has done because we are only 42 Members and we must finish this business. Serjeant-at-**Arms don't let anyone out until we finish this business.**

(Applause)

Hon. Peter Imwatok: Hon. Speaker, we are all aware we are the citizens of the world and we must pray that God intervenes to save the world from COVID-19 Virus. As a Seventh Day Adventist, I am a believer in Jesus Christ who came to save the world.

As I stand to second this important Bill, I want to appreciate the Chair of Budget and the entire Committee. Despite all the challenges that we are facing currently, yesterday they were here making sure this Appropriation Bill comes to reality. I am particularly moved by the cohesion between the Chair and the Clerk of this Committee. I am aware the young man of this Committee and his team is currently heading home to rest because they never slept the entire night.

Madam Speaker, in the history of our County Assembly led by the able Speaker, we are standing here today to appropriate Kshs.1.25 billion to the Nairobi Metropolitan Service (NMS) to fight COVID-19. This is a milestone. The County Assembly has sacrificed the entire development budget and the Budget Committee has tried to balance all the votes to make sure we come up with Kshs.1 billion that will be officially handed over tomorrow morning to NMS to fight COVID-19 in Nairobi County which has been mapped as the hotspot. Congratulations Chair of Budget Committee, the members of the Committee and the entire County Assembly of Nairobi.

(Applause)

Also, Madam Speaker on the same vote, we are asking the Director General, his team and the team that is going to work on the emergency that we want to see Nairobians safe and secure. We have seen

other counties trying to develop new isolation centers. We need to modernize either Nyayo Stadium, KICC or wherever and make sure that as we approach the critical hour of this disease, our people are safe.

Achieving Kshs.85 million in a vote book to allocate each ward Kshs.1 million to make sure that every citizen of this County at least has a mask that costs only Kshs.65 is not a mean feat. I was moved yesterday on social media where I saw a young woman and her daughter were using bottles as masks. That is what made the Budget and Appropriation Committee allocate money to make sure that everyone has a mask and a sanitizer.

On the same note, we want to put on notice the suppliers of this very important product – As I said yesterday in a meeting, there are some sanitizers, which are not up to standard. People have started to fleece the government by using chlorine and water in the pretense that it is a sanitizer. We need suppliers that are up to standard. If it is a sanitizer, let it help our people of Nairobi and not creating millionaires. On behalf of the 85 members elected to this House, we are proud of the Budget Committee.

Madam Speaker, on the issue of the Inspectorate Department which is the most important sector that we have, I urge the Director General because this is part of ancillary services and utilities that were not part of the four major articles. This is an important sector that will enable the Director General to operate. I am also aware that there are some staff who are still resistant to change. This change is for the good. We want an Inspectorate with new uniforms and tags, clean and with dignity. I urge them with all due respect to report to the Director General and serve Nairobians. Thank you Chair for allocating the entire budget of Inspectorate to the Director General to make sure that this County becomes a first-class County. This is a Capital City for heavens' sake. We have an Inspectorate *askari* who has no tag and does not know he needs new shoes. I believe that the Director General and his team will revamp this sector to make it worth what it needs to be.

Madam Speaker, there is also a joke in town that we must speak as leaders. This County Assembly will not entertain anybody purporting to be too philanthropic in terms of COVID-19. I am particular to those people in estates who are calling people to distribute food and sanitizers. This is a disaster that first-class cities have failed to contain. New York, the best city has failed to contain. Wuhan in China has also failed to contain it. No one can tell me as MCA or aspiring MP that I can now call people and distribute food. We are creating a scenario whereby we are going to spread this disease. My urge as I second this motion, Madam Speaker, let it be that go to the public that publicity can be gotten in other forms but not in the form of wanting to kill people.

Therefore, as I sit, I want to thank the Budget and Appropriations Committee, the entire Committee, the Speaker and the able leadership by making sure that we have a special sitting. The Director General, the job is in your hands, do your job and let us see what can happen to Nairobians. Thank you, Madam Speaker.

Hon. Speaker: Thank you Chair of health for coming back. I was not being rude but COVID-19 is in your docket. You have to be serious at this meeting.

(Applause)

(Hon. Imwatok spoke off the record)

As much as it was transferred, Madam Speaker ensured that the County Assembly was never transferred. It still has its powers. They will have to agree on that as we give them the budget.

(Question proposed)

Hon. Robert Mbatia: Madam Speaker, I want to thank the entire Assembly for the support that has come during this very tough time. I also want to thank your office which has sat and facilitated us to have this wonderful document. I wish also to thank my members who decided and agreed to come while we were asked to be at home. I also thank our Budget Office which sat tirelessly even at home. I remember I talked to our fiscal analyst at around 3:00 a.m. this morning as we were finalizing on the document.

With that said, I also wish to indicate that this shows goodwill by the County Assembly of Nairobi to the NMS. We want to support them, but I want to raise a red flag. A few hours ago, and members can agree with me, our area chiefs have been tasked to write and give priorities of developments in our wards by the NMS.

(Applause)

Madam Speaker, as you were proposing the question, you indicated that our roles still stand. Our role is legislation, representation, and oversight. On representation, the NMS needs to be very clear and to know that this is the Assembly that will help them bring forward our projects. The moment that they will use the area chiefs and other local leaders, that brings a clash with this Hon. House. The power belongs to the people and the people brought these Hon Members to this Hon House. So, we ask them that they continue to coordinate with this Assembly as we have shown goodwill on this.

(Applause)

Madam Speaker, also there has been a pending issue and this has been a weighty matter in all of these 85 elected members; the casuals. On the casuals, every ward fronted ten people. That brought about 850 casual workers who have not been paid for a total of 8 months to date. In this Supplementary Budget and even in the previous one, we have now set aside Kshs.170 million for their payment. I want to request that this House resolves that the first charge be payment of those casual workers. That should be an order from this Assembly.

(Applause)

I also want to echo what *Mheshimiwa Imwatok* has said about the 'philanthropists' who are going around. Because we have the Inspectorate and it is well coordinated up to the ward level, I want to ask the NMS to reign on those so-called 'philanthropists'. **The President has set aside a trust**, a fund that will be run nationally for those that are willing to donate whatever services or goods for the help of this pandemic. So, we kindly ask any philanthropist to go through the laid down procedures.

Madam Speaker, I wish to beg that this Bill be read a second time. Thank you, Madam Speaker.

Hon. Speaker: Before I put the question, the Chairman has raised a fundamental issue, especially in the matter of NMS. I think the President was very clear that indeed the NMS was going to support **Nairobi, but at the same time will have to work with the County Assembly. Ensure the young people, 'ten by ten' that were selected by the members are presented to the Director General. I don't think he has an issue.** It is a matter of informing him this is how it is and I believe he will follow.

You have an issue Chair before I propose the question?

Hon. Robert Mbatia: Thank you, Madam Speaker, again on the instructions that have been given on the so-called illegal businesses, this country at this point we have realized that 72% of the population is not employed and is in informal businesses. The moment we go down and demolish the so-called businesses, we will be rendering our people more jobless than they are. We request that we have a review of that order. That is our request to the NMS. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Are we saying that nobody has a temporary license?

Hon. Robert Mbatia: Yes, they were suspended.

Hon. Speaker: Hon. Members, they are going to review and you must be honest to yourself. If you know you are running the business, you go quietly and say so. Because we want the poor to be given those businesses not that you find that we are the poor, it would be wrong. Let us be honest to the General, if you know you run the business, go and say you run the business. If you don't, then we are going to tell the General that these are indeed poor people who don't have any other income. So it will depend on the conflict that is there---

Order! I am informed, Hon. Ronaldo. I am hoping the poor Nairobiian is the one who owns that business. I will fight tooth and nail to ensure they remain with their business but if it is someone who earns a salary in the national government or county government, and you own the kiosk and you are saying it is for the poor, then you are doing wrong to Kenyans.

(Question put and agreed to)

(The Bill was read accordingly for the second time and committed to the Committee of the Whole House)

COMMITTEE OF THE WHOLE ASSEMBLY

(Order for Committee read)

(The Speaker left the Chair)

IN THE COMMITTEE

THE APPROPRIATION BILL

(Hon. Chairman, Mr. John Kamangu, took the Chair)

Hon. Chairman: Hon. Members, we are now in the Committee of the Whole Assembly to consider the Nairobi City County Supplementary Appropriation Bill 2020, Assembly Bill No. 1 of 2020. We start with Clause 2.

Clause 2

(Question that Clause 2 be part of the bill proposed)

(Question that Clause 2 be part of the bill put and agreed to)

Hon. Peter Imwatok: Chair, I would like to know whether we are in the same page on the direction of the President on people over 50 years--- *(Laughs)*

Hon. Chairman: Out of Order! Hon. Imwatok, it is just a matter of time I throw you out of this assembly if you misbehave again. I have given you a warning.

(Loud consultations)

Hon. Chairman: Order!

Clause 3

(Question that Clause 3 be part of the bill proposed)

(Question that Clause 3 be part of the bill put and agreed to)

First Schedule

(Question that First Schedule be part of the bill proposed)

(Question that First Schedule be part of the bill put and agreed to)

Hon. Robert Mbatia: Hon. Chair, I propose that the First Schedule be amended as follows:

- i. In Vote No. R5312 under the Service on General Administrative Services by deleting the supply of 2,930,331,264 and substituting thereof with the supply of 2,832,331,264.
- ii. In Vote No. R5312 under the Service on Security and Safety by deleting the supply of 2,068,979,878 and substituting thereof with the supply of 2,028, 979,878.
- iii. In Vote No. R5312 under the Service on Disaster Management Coordination by deleting the supply of 335, 687,547 and substituting thereof with the supply of 270,687,547.

- iv. In Vote No. R5312 by deleting the Total Supply of 5,684,503,831 and substituting thereof with the supply of 5,481,503,831.
- v. In Vote R5318 under the Service on General Administrative Services by deleting the supply of 1,189,764,648 and substituting thereof with the supply of 1,139,764,648
- vi. In Vote No. R5318 by deleting the Total Supply of 1,551,494,648 and substituting thereof with the supply of 1,501,494,648.
- vii. In Vote R5325 under Service on Ward Development by deleting the supply of 39,000,000 and substituting thereof with the supply of 9,000,000
- viii. In Vote No. R5325 by deleting the Total Supply of 39,000,000 and substituting thereof with the supply of 9,000,000.
- ix. In Vote R5326 under Service on General Administrative Services by deleting the supply of 250,000,000 and substituting thereof with the supply of 1,025,000,000
- x. In Vote No. R5326 by deleting the Total Supply of 250,000,000 and substituting thereof with the Total supply of 1,025,000,000. xi. By deleting the Recurrent Total Supply of 27,198,681,723 and substituting thereof with the Recurrent Total Supply of 27,912,681,723
(Question that First Schedule be amended as proposed put and agreed to)

(Question that First Schedule as amended be part of the bill put and agreed to)

Second Schedule

Hon. Robert Mbatia: Hon. Chair, I propose that the Second Schedule be amended as follows:

- i. In Vote D5313 under the Service on Information and Communication Services by deleting the supply of 437,924,835 and substituting thereof with the supply of 347,924,835
- ii. In Vote No. D5313 by deleting the Total Supply of 538,924,835 and substituting thereof with the supply of 448,924,835
- iii. In Vote D5314 under the Service on Public Financial Management by deleting the supply of 915,106,000 and substituting thereof with the supply of 863,106,000.
- iv. In Vote D5314 under the Service on Economic and Financial Policy Formulation and Management by deleting the supply of 170,000,000.
- v. In Vote No. D5314 by deleting the Total Supply of 1,085,106,000 and substituting thereof with the supply of 863,106,000.
- vi. In Vote D5325 under Service on Ward Development by deleting the supply of 1,485,375,165 and substituting thereof with the supply of 1,305,375,165.
- vii. In Vote No. D5325 by deleting the Total Supply of 1,485,375,165 and substituting thereof with the supply of 1,305,375,165.
- viii. By deleting the Development Total Supply of 9,516,054,218 and substituting thereof with the Recurrent Total Supply of 9,068,709,165
(Question that the Second Schedule be amended as proposed put and agreed to)

(Question that the Second Schedule as amended be part of the bill put and agreed to)

Hon. Chairman: Hon. Members, please be attentive.

Schedule

(Question that the Schedule be amended as proposed put and agreed to)

(Question that the Schedule as amended be part of the bill put and agreed to)

Title

(Question that the title be part of the bill proposed)

(Question that the title be part of the bill put and agreed to)

Clause 1

(Question that Clause 1 be part of the bill proposed)

(Question that Clause 1 be part of the bill put and agreed to)

Hon. Chairman: Mover, report the progress.

Hon. Robert Mbatia: Hon. Chair, I beg to move that the Committee reports to the Assembly its consideration of the Nairobi City County Assembly Supplementary Budget, Assembly Bill No. 1 of 2020 and its approval thereof with amendments.

(Consideration of the report of the bill with amendments put and agreed to)

(Hon. Chairman leaves the Chair)

(The Speaker resumes the Chair)

Hon. Chairman: Hon. Speaker, I beg to report that the Committee of the Whole House has considered the Nairobi City County Supplementary Appropriation Bill, Assembly Bill No. 1 of 2020 and agreed on the same with amendments.

Hon. Speaker: **Order! I can't even hear** what the Chairman is saying.

(Loud consultations)

Hon. Speaker: Order! Anyone can have a common cold, that is why he is wearing a mask. I said when commencing my communication that when coughing you either use your elbow or you cough in the mask. What is the problem? Proceed.

Hon. Chairman: Hon. Speaker, I beg to report that the Committee of the Whole House has considered the Nairobi City County Supplementary Appropriation Bill, Assembly Bill No. 1 of 2020 and approved the same with amendments.

Hon. Robert Mbatia: Madam Speaker, I beg to move that the assembly agrees with the Committee in the said report.

(Question proposed)

(Question put and agreed to)

Hon. Robert Mbatia: Thank you, Hon. Speaker. I beg to move that the Nairobi City County Assembly Supplementary Budget, Assembly Bill No. 1 of 2020 be now read a third time.

(Question proposed)

(Question put and agreed to)

(The bill was accordingly read for the Third Time and passed)

MOTION

ACCORDING TO THE DESIGNATION OF AN A.I.E HOLDER OF THE NAIROBI METROPOLITAN SERVICES

Hon. Speaker: Majority Leader.

Hon. Charles Thuo: Hon Speaker, I wish to move the following motion. That, aware that, following the execution of the Deed of Transfer of Functions from the County Government to the National Government and the Addendum thereon, H.E the President, Uhuru Muigai Kenyatta established the Nairobi Metropolitan Services (NMS) as an entity responsible for the implementation of the transferred functions, Further aware, that, for NMS to fund its activities shall draw funds from both the Consolidated Fund and the County Revenue Fund as provided for under Article 5 of the Deed, this Assembly expresses its agreement and accedes to the designation of one Enosh Onyango Momanyi as an A.I.E holder for the Nairobi Metropolitan Services.

I ask the Leader of Minority to second the motion.

Hon. Speaker: Minority Leader.

Hon. David Mberia: Thank you Madam Speaker. Before I second, I want the Chair to pronounce on the issue of chiefs proposing projects for our wards.

(Applause)

Hon. Speaker: Order Leader of Minority! We have 15 minutes to finish everything in this House. As you debate, kindly debate in cognizant of what you are seconding.

Hon. David Mberia: I beg to second the motion.

(Question proposed)

Hon. Speaker: Mover.

Hon. Charles Thuo: Thank you, Hon. Speaker. I wish to thank the House for the support. I beg that they approve the motion. Thank you.

(Question put and agreed to)

MOTION

CONSENTING WITH REALIGNMENT, CODIFICATION AND RANKING OF SECONDED COUNTY PERSONNEL TO THE NATIONAL GOVERNMENT

Hon. Charles Thuo: Madam Speaker, I beg to move the following motion. That aware that Article 187 of the Constitution, 2010 and Section 24 of the Intergovernmental Relations Act, 2012 allows for the transfer of functions and powers from one level of Government to another; further aware, that, on 25th February 2020, an agreement was entered between the National Government and the County Government of Nairobi City transferring some of the functions of the County Government namely; County Health Services, County Transport Services, County Planning, and Development Services and County Public Works, Utilities and Ancillary Services to the National Government. Further aware, that, pursuant to Article 5 of the Deed of Transfer of Functions Human Resource responsible for the implementation of the transferred functions shall be seconded from the County Government to the National Government, Cognizant of the fact, that, the affected County Staff have already been handed over to the Nairobi Metropolitan Services which is the implementing entity of the transferred functions, this Assembly consents with the secondment of County Staff to the National Government and further agrees with the codification, realignment, and ranking of the seconded staff by the Nairobi Metropolitan Services and the Public Service Commission.

I call upon the Leader of Minority to second the motion.

Hon. Speaker: Leader of Minority, now you can speak what you wanted. This is more realigned to your issue.

Hon. David Mberia: Thank you Madam Speaker. I just wanted to caution that as we move ahead in supporting the Nairobi Metropolitan **Services to ensure the Director General... I was saying that all the** functions which have been transferred to NMS will be funded by the County Revenue Fund. It is the money that belongs to this county which will be used to implement the projects and the issue of chiefs and sub-

chiefs being used by the same NMS to propose projects in our wards is a clear undermining of our authority as Members elected to represent the interest of our people.

Madam Speaker, it is in bad faith that the Provincial Administration be used to undermine elected members of this House. We are willing to legislate and make budgets for the NMS. But NMS must not be used to undermine the leadership of this House. It is your duty as the political leader in this county to ensure the message is taken clearly to the Director General and the secretariat that the issues of projects must come from the elected leaders of this County Assembly.

Madam Speaker, as I second this motion, I want to assure Members that I second this motion with a lot of authority. And before then, I want to appreciate the Chairman of the Budget and Appropriation Committee for a job well done. This County Assembly remains the supreme authority of this county. We have no function which has been transferred to the National Government. Our three functions are still intact. The function of representation is there. The issue of projects which will be fully funded by this county must come from the Members of this House. The function of legislation remains with this House and we are going to help the NMS with all the legislations be it for the health sector, transport, planning and lands, we are ready to help the leadership of NMS through the Director General to ensure our wards are fully developed.

For the interest of time, I beg to second. Thank you.

(Question proposed)

Hon. Speaker: Mover.

Hon. Charles Thuo: Hon. Speaker, this motion is very important and I hope the House will pass it. The constitution requires that when a function is transferred, it is a component of the necessary resources both financial and human resources. The financial part has already been dealt with by the budget committee and now the Assembly has the honor of endorsing and agreeing with the constitution. That the human resources should be transferred together with the resources. Hon. Speaker, we must also transfer the infrastructure that goes with the same and other resources including the vehicles, the office spaces if so required. I am aware and the Director General has made that communication to me that he is facing a lot of trouble accessing the county vehicles for the transferred functions. It is therefore my wish that as the Assembly passes this motion, the Chair will find it prudent to include the transfer of the necessary infrastructure and tools and equipment that is going to enable NMS to perform their functions including and not limited to vehicles and office space. It should accompany the communication as having been part of the resolution of the Assembly. I thank the House for the support. Thank you.

(Question put and agreed to)

ADJOURNMENT

Hon. Speaker: Hon. Members, there being no other business, this House stands adjournment until the date that will be gazetted for another sitting.

(The House rose at 3:58 P.M.)