

Report laid on 02/12/2015

by Hon. Michael Ojoda

COUNTY GOVERNMENT OF NAIROBI CITY



PCA Ch(7)

Ypori

02/12/2015

NAIROBI CITY COUNTY ASSEMBLY

FIRST ASSEMBLY - THIRD SESSION

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REPORT OF THE SELECT COMMITTEE ON BUDGET AND  
APPROPRIATIONS

ON

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THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD  
SUPPLEMENTARY ESTIMATES FOR THE FY 2015/16

DECEMBER 2015

**Mr. Speaker Sir,** County Assemblies are institutions set up by the Constitution of Kenya 2010 to undertake legislation, oversight and representative functions for the County Government. The biggest legislative and oversight function for any parliament in the modern century revolves around resource mobilization and resource utilization. This cross-cutting and continuous duty of the County Government involves thorough background check and forward looking gestures to ensure that resources at the disposal of the devolved units are used only in initiatives that bring the highest level of return to the majority of the electorates. The above description fits the ordinary function of any County Assembly and specifically the day to day work schedule of the Budget and Appropriations Committee.

The Nairobi City County Assembly Budget and Appropriations Committee is mandated to among others:

- a) *Investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget;*
- b) *Discuss and review the estimates and make recommendations to the County Assembly;*
- c) *Examine the County Fiscal Strategy Paper presented to the County Assembly;*
- d) *Examine Bills related to the county budget, including Appropriations Bills; and*
- e) *Evaluate tax estimates, economic and budgetary policies and programs with direct budget outlay*

**Mr. Speaker Sir,** the County Assembly Budget & Appropriations Committee comprises of the following 19 Members:

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|-------------------------------|---------------|
| 1. Hon. Michael Okumu, MCA    | Chairman      |
| 2. Hon. George Ochola, MCA.   | Vice Chairman |
| 3. Hon. Fredrick Obenge, MCA. |               |
| 4. Hon. Maurice Akuk, MCA     |               |
| 5. Hon. Alexina Mudi, MCA     |               |
| 6. Hon. Osman Ibrahim, MCA.   |               |
| 7. Hon. Jackson Kiama, MCA.   |               |
| 8. Hon. Kenneth Thugi, MCA    |               |
| 9. Hon. David Kairu, MCA      |               |
| 10. Hon. Helen Katangie, MCA  |               |
| 11. Hon. Herman Azungu, MCA   |               |

- 12.Hon. Emmaculate Musya, MCA
- 13.Hon. Joash Omwenga, MCA
- 14.Hon. Kennedy Oduru, MCA
- 15.Hon. Isaac N. Ngige, MCA
- 16.Hon. Ngaruiya Chege, MCA
- 17.Hon. Samuel Irungu, MCA
- 18.Hon. Bernadette Wangui, MCA
- 19.Hon. Victoria Alali, MCA

**Mr. Speaker Sir**, the supplementary budget for the Board was tabled in the County Assembly on Tuesday 24<sup>th</sup> November 2015 by the Leader of the Majority Party. Having been laid the estimates stood committed to the Select Committee on Budget and Appropriations for consideration and reporting. In this regard, the Speaker directed that the Committee needed to report back on the estimates by Tuesday 1<sup>st</sup> December 2015.

#### **Examination of the Supplementary Estimates**

The Budget Committee sat on Wednesday 25<sup>th</sup> November 2015 and considered the budget requests. In the meeting the Committee was taken through a chronological event that had led to the budget deficit forcing the County Assembly Service Board to draft a supplementary estimate. In the meeting, the Committee was categorically informed that the estimates had been prepared on the advice of the County Executive Committee Member for Finance. The Committee therefore okayed the budget estimates subject to receiving a written communication from the Executive Committee Member confirming that there were carried forward bank balances or other finances to fund the requested amounts. The Committee would hence be reporting on these findings.

#### **Acknowledgment**

**Mr. Speaker Sir**, the onus of considering the budget estimates for the County Assembly Service Board falls squarely with the Budget and Appropriations Committee hence did not require the input of the Sectoral Committees. In the process of this review, the Committee wishes to commend the indelible input of the Clerk to the County Assembly ably represented by the Senior Finance Officer and

the County Assembly Fiscal Analysts who helped it unpack and make sense of the budgetary projections.

**Mr. Speaker**, most importantly, I would like to thank Members of the Budget and Appropriations Committee for their dedication, untiring commitment and valuable contributions. It is because of their hard work that we have been able to effectively review and make this report on the supplementary budget estimates.

**Mr. Speaker Sir**, the Committee is grateful to the Office of the Speaker and the Office of Clerk of County Assembly for the support received as it discharged its mandate of reviewing the Supplementary Estimates.

**Mr. Speaker Sir**, It is therefore my pleasant duty and privilege, on behalf of the Budget & Appropriations Committee to table this report and recommend it to the Assembly for adoption.

Signed.....

Date.....

Hon. Michael O. Okumu, MCA

Chairman, Budget and Appropriations Committee

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## SCRUTINY OF THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD SUPPLEMENTARY ESTIMATES FOR THE FY 2015/16

### A. 2015/ 16 APPROVED BUDGET AND THE SUPPLEMENTARY BUDGET

1. **Mr. Speaker Sir**, this County Assembly approved a total budget of Kshs. 30.9billion out of which Kshs. 1.69billion was to be utilized by the County Assembly Service Board for various recurrent expenses and development undertakings. In the approved budget, there had been an allocation of Kshs. 144 million for development projects mainly to be directed towards construction of committee rooms, refurbishment of offices, and purchase of various security equipment among others.
2. **Mr. Speaker Sir**, to enable Members keep track on how the allocations for the County Assembly have changed over time it is important to remind Members that the issue of renovation of County Assembly Chambers was started in the FY 2013/14 with an initial allocation of Kshs. 462million. As is the norm in any other government entity that relies on exchequer releases, the County was faced with cash flow problems leading to an actual expenditure of Kshs. 40.96million. The amounts for renovation were once again budgeted for in the FY 2014/15 with the allocation being rationalized downwards to Kshs. 320million. In the FY 2014/15 the vote performed better than in the previous financial year leading to an actual expenditure of Kshs. 120.25million. From the foregoing, whereas it is conspicuous that the County Assembly Service Board has faced a number of liquidity challenges on funding its development activities, it has done its best to ensure that progress is made under the clearly very difficult circumstances. In the two financial years therefore, the County Assembly has only been able to access Kshs. 162million from the County Treasury leading to a financing deficit of more than 50%.
3. **Mr. Speaker Sir**, as Hon. Members may remember, in the financial year 2015/16 there was no allocation for renovation of the Chambers requested by the County Assembly Service Board. Further as Members may recall, on Tuesday 3<sup>rd</sup> March 2015 following a directive from the Chair, the Budget Committee held discussions with the County Executive Committee Member for Finance, the

Clerk to the County Assembly and the Controller of Budget with an aim of finding a lasting solution to the financial distress facing the County Assembly at the time. In the meeting, it was agreed that the County Executive Committee Member for Finance shall remit the amounts due to the County Assembly consistently and diligently. This position, the Committee was informed during its deliberations on these supplementary estimates, was further emphasized during meetings between the Executive Committee Member and the County Assembly Service Board. This brief history, **Mr. Speaker**, provides a snapshot of activities that have led us to this point where the County Assembly Service Board has tabled these supplementary estimates for consideration.

4. **Mr. Speaker**, due the consistent commitment by the County Executive Committee Member that he would fund the development budget for the County Assembly before the end of the FY 2014/15, the County Assembly did not budget for the same. This, the Committee was informed, the Executive Member attributed to the underperformance in revenues and the competing needs of the County Government. However, as at the date of this report, the projects were rolled over to the FY 2015/16 with all payments due for settlement by mid December 2015. Further the County Assembly has pending of bills of up to Kshs. 39million which had not been factored in the 2015/16 budget estimates but which were incurred in the FY 2014/15.

## **B. COMPLIANCE OF THE 2015/16 SUPPLEMENTARY ESTIMATES WITH THE PREVAILING LEGISLATION**

5. **Mr. Speaker Sir**, as has been said by the Budget Committee in this Assembly a number of times, supplementary budgets are prepared to provide for unforeseen changes and to realign the budget to realities experienced in its implementation. Section 135 (1) and (2) of the Public Finance Management Act, 2012 empowers a County Government to spend money that has not been appropriated if the amount set aside for any particular purpose under the County Appropriations Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated under the Act. This, the act says, must then be followed with a supplementary budget in support of the same. Further it is implied by the same law that supplementary estimates should also be used as avenues for seeking additional funding for matters that were earlier not

anticipated. These submissions have been done in line with these legal provisions.

6. **Mr. Speaker Sir**, one of the major hallmarks of the Constitution of Kenya 2010 was the opening up of the budget process and making it a tool through which the general public and other interested parties can hold their governments accountable. In this regard therefore, the budget making process in the new dispensation is not anticipated to be a puzzle which only a few that can unravel. In satisfying these legal provisions, Section 135 (3) of the Public Finance Management Act, 2012 as well as Standing Order 215 (2) require that the Supplementary Estimates be accompanied by explanations of how the additional expenditure being requested is related to the fiscal responsibility principles and financial objectives. It is the anticipation in law that the supplementary budget shall be linked to the County Fiscal Strategy Paper which sets the overall financial objectives for the County. This is aimed at making the process predictable, logical and properly anchored in law. Whereas there were great attempts to adhere to these legal provisions there still remains some ground to cover in understanding and complying with these legal guidelines. The Committee therefore strongly recommends that any future budget estimates must include such details to adhere with the law and facilitate members to understand better the genesis of the proposed amendments.
7. **Mr. Speaker Sir**, with regard to the budget estimates for the County Assembly Service Board and in line with the provisions of Section 12(7) of the County Governments Act 2012, these supplementary estimates were approved by the Board on 11<sup>th</sup> November 2015. The copies of the estimates were similarly forwarded to the County Executive Committee Member for Finance for his comments as anticipated by the provisions of Section 129(4) of the Public Finance Management Act, 2012. The Committee would hence wish to confirm to the Members that there has been a lot of fidelity to the law with regard to the submission of the supplementary estimates.
8. **Mr. Speaker**, the Budget Committee would not tire in reminding Members that one of the major changes since coming into force of the PFM Act, 2012 has been the shift to Program Based Budgeting. This form budgeting is not meant to complicate budgeting but rather to ensure that budgetary allocations are only

done to programmes with specific, measurable, achievable and time-specific targets and outcomes. In this framework, every unit budgetary allocation should influence the overall output for which the money is earmarked making it easy to track how changes in spending would influence service delivery. This program-based analysis is even important at helping avoid guess-work on how the proposed alterations, if approved, would affect the programmes we had undertaken to pursue through the 2015/16 budget. The Committee notes that the County Assembly Service Board has taken great measures to comply with this new form of budgeting.

### **C. AREA OF CONCERN ON THE COUNTY ASSEMBLY BUDGET**

#### **Allocation for Salaries and Wages**

9. **Mr. Speaker**, since the Budget Committee received the full year budget implementation review report from the Office of the Controller of Budget, the Committee has been engrossed in trying to get explanations on why there has been no relationship between allocations for salaries and outstanding debt for statutory deductions. The Committee has been shocked to learn that whereas there has been 100% expenditure on the allocations, the debts have maintained an upward trajectory. During deliberations on these supplementary estimates, the Committee was keen to find out from the County Assembly Accounting Officer on the relationship between the actual amounts requisitioned and those utilized for this line of non-discretionary expenditure. Members of the Committee were concerned that whereas the County Assembly approved gross expenditures for the salaries and wages of Members of County Assembly, the amounts were hardly utilized in full since no Member ever enjoyed the full Committee and plenary sittings. The Committee interrogated the County Assembly Senior Finance Officer on the reasons related to the above concerns to which explanations were given. However, to comprehensively understand this subject, the Committee would in due course be recommending an audit of the County Assembly management of its budget to ensure that we live within the fiscal prudence that we preach.



## D. CONCLUSION

**Mr. Speaker**, the Budget Committee having listened to the submissions from the Clerk of the County Assembly and considered the written commitment from the County Executive Committee Member for Finance, is convinced that the requested amounts are warranted and fully justified. The Committee would hence be requesting this County Assembly to support its report and approve the estimates as presented by the Board to enable it fast-track its pending payments. Further, the Committee urges the County Executive Committee Member to remain faithful to his undertaking and ensure that the amounts are remitted to the County Assembly without any bureaucratic delays.

## E. RECOMMENDATIONS:

10. **Mr. Speaker Sir**, the Committee has considered the request from the Nairobi City County Assembly Service Board and approved the submitted Supplementary Estimates, by majority vote, without any amendments.

**Mr. Speaker Sir**, in conclusion and pursuant to the provisions of Section 135 (2) and (4) of the Public Finance Management Act 2012 and Standing Order 215 the County Budget and Appropriation Committee recommends **that:**

This County Assembly adopts the Report of the Budget and Appropriations Committee on the Supplementary Budget Estimates for the Nairobi City County Assembly Service Board tabled in the County Assembly on Wednesday 2<sup>nd</sup> December 2015.



**MINUTES OF THE 142<sup>ND</sup> SITTING OF 2015 OF THE NAIROBI CITY COUNTY BUDGET AND APPROPRIATIONS COMMITTEE HELD ON WEDNESDAY 2<sup>ND</sup> DECEMBER 2015 AT 12PM CHARTER HALL, CITY HALL BUILDINGS.**

**PRESENT**

1. Hon. Michael Ogada, MCA                      Chairman
2. Hon. George Ochola, MCA                      Vice Chairman
3. Hon. Emmaculate Musya, MCA
4. Hon. Ngaruiya Chege, MCA
5. Hon. Maurice Akuk, MCA
6. Hon. Alexina Mudi, MCA
7. Hon. Osman Adow, MCA
8. Hon. Kenneth Muroki, MCA
9. Hon. Samuel Irungu, MCA
10. Hon. Hellen Katangie, MCA
11. Hon. Ken Oduru, MCA
12. Hon. Herman Azangu, MCA
13. Hon. Bernadette Wangui, MCA
14. Hon. Fredrick Obenge, MCA

**ABSENT**

15. Hon. Isaac Ngige, MCA
16. Hon. Jackson Kiama, MCA
17. Hon. Victoria Alali, MCA
18. Hon. David Kairu, MCA
19. Hon. Joash Omwenga, MCA

**IN-ATTENDANCE**

1. Hon. Elias Otieno                      Leader of Majority Party and Vice Chair of CASB

## **SECRETARIAT**

- |                      |                              |
|----------------------|------------------------------|
| 1. Mr. Jacob Ngwele  | Clerk to the County Assembly |
| 2. Mr. Fred Macharia | Senior Finance Officer       |
| 3. Mr. Erick Otieno  | Fiscal Analyst/ Clerk to BAC |

### **MIN553/BAC/ DECEMBER /2015: Preliminaries**

The Chairman called the meeting to order at twelve o'clock with opening prayers being led by Hon. Bernadette Wagui.

The following agenda was adopted for the meeting after being proposed by Hon. Kenneth Thugi and being seconded by Hon. Herman Azangu.

1. Preliminaries
2. Consideration of Response to Statement
3. Adoption of the Report on the Nairobi City County Assembly Service Board Supplementary Estimates
4. Adoption of Report on the Controller of Budget Report
5. Any Other Business
6. Adjournment

### **MIN554/BAC/DECEMBER/2015: Consideration of Response to Statements**

The Committee considered the response to statements as had been delivered by the County Executive and noted that they were unsatisfactory. All the requests were hence rejected by the Committee.

### **MIN555/BAC/DECEMBER/2015: Adoption of the Report on the Nairobi City County Assembly Service Board Supplementary Estimates**

The Committee went through the draft report on the supplementary estimates and approved the same, by majority vote, without amendments.

### **MIN555/BAC/DECEMBER/2015: Adoption of Report on the Controller of Budget Report**

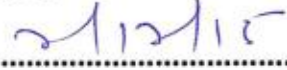
The agenda was postponed to the next meeting.

### **MIN556/BAC/ DECEMBER/2015: Adjournment.**

The time being thirty minutes past two o'clock in the afternoon, the Chair adjourned the meeting

**CONFIRMED AS TRUE RECORD OF PROCEEDINGS**

Sign.....

Date.....

Hon. Michael O. Ogada (Chairman)



**MINUTES OF THE 138<sup>TH</sup> SITTING OF 2015 OF THE NAIROBI CITY COUNTY BUDGET AND APPROPRIATIONS COMMITTEE HELD ON WEDNESDAY 25<sup>TH</sup> NOVEMBER 2015 AT 12PM CHARTER HALL, CITY HALL BUILDINGS.**

**PRESENT**

- |                               |               |
|-------------------------------|---------------|
| 1. Hon. Michael Ogada, MCA    | Chairman      |
| 2. Hon. George Ochola, MCA    | Vice Chairman |
| 3. Hon. Emmaculate Musya, MCA |               |
| 4. Hon. Ngaruiya Chege, MCA   |               |
| 5. Hon. Victoria Alali, MCA   |               |
| 6. Hon. Maurice Akuk, MCA     |               |
| 7. Hon. Alexina Mudi, MCA     |               |
| 8. Hon. Osman Adow, MCA       |               |
| 9. Hon. David Kairu, MCA      |               |
| 10. Hon. Kenneth Muroki, MCA  |               |
| 11. Hon. Samuel Irungu, MCA   |               |
| 12. Hon. Hellen Katangie, MCA |               |
| 13. Hon. Joash Omwenga, MCA   |               |
| 14. Hon. Ken Oduru, MCA       |               |
| 15. Hon. Herman Azangu, MCA   |               |

**ABSENT**

16. Hon. Bernadette Wangui, MCA
17. Hon. Isaac Ngige, MCA
18. Hon. Jackson Kiama, MCA
19. Hon. Fredrick Obenge, MCA

**SECRETARIAT**

1. Mr. Fredrick Macharia Senior Finance and Planning Officer.

2. Mr. Erick Otieno Fiscal Analyst/ Clerk to BAC.
3. Mr. Moses Senator Fiscal Analyst

**MIN548/BAC/ NOVEMBER /2015: Preliminaries**

The Chairman called the meeting to order at twelve o'clock with opening prayers being led by Hon. Herman Azangu.

The following agenda was adopted for the meeting after being proposed by Hon. David Kairu and being seconded by Hon. George Ochola

1. Preliminaries
2. Confirmation of Minutes
3. Matters Arising
4. Letter from Office of Controller of Budget (OCOB) on Annual Development Plan (ADP)
5. Nairobi City County Assembly Board Supplementary Estimates
6. Any Other Business
7. Adjournment

**MIN549/BAC/NOVEMBER/2015: Confirmation of Minutes.**

The agenda was postponed to the next meeting.

**MIN550/BAC/NOVEMBER/2015: Letter from OCOB on Annual Development Plan**

The Clerk to the Committee presented the Members a letter from the Office Controller of Budget requiring the County Assembly to approve the Annual Development Plan for the FY 2015/16. The Chairman took the Committee through the letter by the Controller of Budget expressing concerns over the non-approval of the Annual Development Plan for the FY2015/16 by the County Assembly as required by provisions of Section 126(3) of the Public Finance Management Act, 2012.

The Committee resolved to have the agenda slotted in the program of the Committee workshop scheduled for Naivasha starting 29<sup>th</sup> November 2015.

**MIN551/BAC/ NOVEMBER/2015: Consideration of the Nairobi City County Assembly Service Board Supplementary Estimates**



The Committee Clerk informed the meeting that the Supplementary Estimates had been tabled in the County Assembly and committed to the Budget Committee for consideration and reporting by Tuesday 1<sup>st</sup> December 2015. The Chair welcomed the County Assembly Senior Finance Officer to take it through the contents of the estimates.

The Senior Finance and Planning Officer while taking the Committee through the contents of the estimates explained that the document had been occasioned by underfunding in the budget for the F Y 2014/15 to the tune of Kshs.309million despite a commitment by the County Executive Committee Member for Finance to do so. This failure, he said, was attributed to the underperformance of county revenues collection in the previous financial year. The Committee was informed that the underfunding had resulted in pending bills totaling up to Kshs.39million and a further Kshs.270million emanating from the ongoing renovations of the County Assembly Chambers. The Senior Finance Officer informed the Committee that due to the aforesaid commitment to remit the funds before the lapse of the FY 2014/15, these expenditures had not been appropriated in the budget for the FY 2015/2016.

Having listened to the presentation on the proposed supplementary estimates, the Committee expressed concerns on the budget performance for the County Assembly especially use of requisitioned amounts for payments of salaries and allowances. Members wanted to know how excess amounts not paid to Members who did not qualify for full Committee and plenary sittings were spent. The Members agreed that there was need to undertake a thorough audit of the budget for the County Assembly over the last two years to determine how the amounts not actually used for payment of salaries/ allowances were utilized.

Finally, the Committee approved the presented Supplementary Budget but insisted on the Finance Officer to ensure that the Assembly obtained a written commitment from the County Executive Committee Member for Finance on the availability on funds for the

budgeted amounts.

**MIN552/BAC/ NOVEMBER/2015: Adjournment.**

The time being one o'clock the Chair adjourned the meeting

**CONFIRMED AS TRUE RECORD OF PROCEEDINGS**

Sign.....

Date.....21/12/13.....

Hon. Michael O. Ogada (Chairman)