



REPUBLIC OF KENYA

## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – First Session

Tuesday 20<sup>th</sup> August, 2013

The House met at 2.30 p.m

*(Mr. Speaker in the Chair)*

#### PRAYERS

#### PAPERS LAID

#### COMMUNICATION FROM THE CHAIR

**Hon. Speaker** (Mr. Alex Sanaika Ole Magelo): Hon. Members, I once again I want to welcome back from recess. It is my understanding and hope that you have been able to interact with members and citizens of your constituencies and you now have a grasp of what is on the ground. Furthermore may I once again welcome the nominated Members of the County Assembly who were sworn in two days ago. I want to welcome you and inform you that you are part and parcel of this family. You have a task ahead of you and I believe you are up to the task.

#### MESSAGES

**Hon. Speaker:** Hon. Members, there is a message from H.E. the Governor. Standing Order number 131, with regard to messages from the Governor, provides that the Speaker shall read any message from the Governor brought to the Speaker for communication to the County Assembly.

In this regard Hon. Members I wish to convey the following message from the Governor: the subject of the message is the appointment of Mr. Meshack A. R. Kuto as the Secretary of the Nairobi City County Public Service Board. The message was submitted by way of a letter dated 24<sup>th</sup> June 2013, addressed to the office of the Hon. Speaker for submission to the Assembly.

It reads: *"Pursuant to the provisions of Article 179(2b) of the Constitution and Section 35 of the County Government Act, I hereby appoint Meshack A. R. Kuto as the Secretary to the Public Service Board."* Hon. Members pursuant to Section 58 of the County Government Act I refer the name to the relevant committee which is the Committee on Labour and Social Welfare to vet the nominee and table its report soonest. Next order

### STATEMENTS

**Hon. Speaker:** Hon. Maurice Akuk. This will be read tomorrow at 2.30pm. Hon. Members if you go through your order paper for today, we will momentarily skip order No. 8 and move to order No. 9.

**Interim Clerk (Mr. Jacob Ngwele):** Order No. 9 The Nairobi City County Finance bill, (Nairobi City County Bill No. 2 of 2013) an Act of the Nairobi City County Assembly to provide for the various taxes, fees and charges for services and for other revenue raising measures for the County Government and the matters incidental thereto. First reading.

**Hon. Speaker:** Hon. Members, order No. 10

**Interim Clerk:** The Nairobi City County Provisional Collection of Revenue Bill (Nairobi City County Bill No. 3 of 2013) an Act of the Nairobi City County Assembly to give statutory effect for limited effect of orders of the Executive Member for Finance imposing any new tax or duty or rates or tax or duty or creating any new allowance or altering or removing any existing tax or duty or any such rate or allowance and for connected purposes. First reading.

**Hon. Speaker:** Next order

**Interim Clerk:** Order No. 11; the Nairobi City county Tax Waivers Administration Bill (Nairobi City County Bill No. 4 of 2013) an Act of the Nairobi City County Assembly to provide for the regulation and administration of tax waivers to give further effect to Article 210 of the Constitution and for connected purposes. First reading.

**Hon. Speaker:** Order No. 8

### PROCEDURAL MOTION

**Hon. Speaker:** Hon. Chairman of the County Budget and Appropriation Committee

**Hon. Member for Embakasi Ward (Mr. Michael Ogada):** Thank you Mr. Speaker, I wish to move a procedural motion that pursuant to the provisions of the Standing Order number 228, this Assembly resolves to exempt the Nairobi City County Finance bill, (Nairobi City County Bill No. 2 of 2013); the Nairobi City County Provisional Collection of Revenue Bill (Nairobi City County Bill No. 3 of 2013) and The Nairobi City county Tax Waivers Administration Bill (Nairobi City County Bill No. 4 of 2013) from the provisions of Standing Order number 121.

Mr. Speaker sir, the reasons why I am requesting for this is because according to the Standing Order number 121(2) it reads *“Notwithstanding paragraph (1), the County Assembly may resolve to commit a Bill to a select committee established for that purpose.”*

The County Budget Committee being the Committee in charge of those Bills, there was a letter that was written to your office by the Governor, when we were on recess and my committee was recalled so that we could look at those Bills after they were submitted to your office. My committee took around two weeks to look at the Bills and therefore we had conclusively gone through them all and yesterday we did have a meeting at the Kenya School of Government where Members raised several issues which my committee sat today to address through revisiting of several issues in the Bills according to the wishes of the Members.

Therefore we are going to have a final meeting tomorrow in the morning to thrush out some few issues about rentals which are still in the Finance Bill. After which I think the document is going to be agreeable to most of the Members. That is why we are requesting that these Bills are not committed to the Committee because the Committee has already completed its work. Therefore I call ‘Mheshimiwa’ Adow to come and second the motion.

**Hon. Speaker:** Thank you Hon. Chairman

**Hon. Member for Eastleigh North (Mr. Osman Adow):** Thank you, Mr. Speaker. I wish to second the motion because of the importance of the Bills. I had gone to see my family in Mandera and was called back to deliberate on the Bills. You know, it takes one week to travel to Mandera and back.....*(Interruption)*

**Hon. Speaker:** Order Hon. Member! Your primary role is entirely to second the motion.

**Hon. Osman Adow:** Thank you for reminding me of that. I would like to second the motion on the grounds that it is important that we pass these Bills as a matter of urgency. Thank you.

**Hon. Speaker:** Hon. Members, I now propose the question that pursuant to the provisions of the Standing Order number 228, this Assembly resolves to exempt the Nairobi City County Finance bill, (Nairobi City County Bill No. 2 of 2013); the Nairobi City County Provisional Collection of Revenue Bill (Nairobi City County Bill No. 3 of 2013) and The Nairobi City county Tax Waivers Administration Bill (Nairobi City County Bill No. 4 of 2013) from the provisions of Standing Order number 121. Hon. Members.  
The Hon. Deputy Speaker

**Hon. Chairman of Chairmen (Mr. Kennedy Ng’ondi):** Mr. Speaker, thank you for giving me this opportunity to contribute to this motion. This Bill is the only key that will open the doors of Nairobi City County Government. It is in the public domain that there is hue and cry at the slow pace towards service delivery. We need to move with speed to implement our pledges to the people. As elected leaders, we went around campaigning; building our people’s hope and making them believe that we can deliver our manifestoes as spelt out by our political parties.

Allow me to support this motion and I believe we do not need to spend even a single minute to argue over this Bill which I believe is the centre of gravity to this County and for that reason Mr. Speaker. I rest my case that we should pass this Bill in totality. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Chege

**Hon. Member for Ngara Ward (Mr. James Chege):** Thank you, Mr. Speaker. As I welcome you back to this Assembly, I wish to propose that it is an important Bill and it is important that we also examine it at the committee stage. For example if you look at the tax waiver administration Bill part 2 where it talks about the powers of the executive committee member.....(*Interruption*).

**Hon. Speaker:** Hon. Member, I am guided that we are not discussing the motion and this is more of procedural, so really I would like to have a center stage where it is agreeable that the Hon. Michael Ogada and his county budget and appropriation committee be given time to thrash out all issues raised by Members before it comes to that stage of really interrogating the motion.

**Hon. James Chege:** Thank you, Mr. Speaker, it was only – because even yesterday when we were having a kamukunji with some members—

**Hon. Member for Viwandani Ward (Mr. Samwel Nyang'wara):** Is the Hon. Chege in order to continue contributing to this particular motion when we know that the Bill has not been tabled? At the same time, Mr. Speaker, is the Hon. Member in order to tell us what they were discussing when they were taking tea? This is an honorable House and all matters discussed pertaining to this house—

**Hon Speaker:** Hon Members, order Members! What we are doing this afternoon is entirely to enable the collection of revenue for the benefit of the people of Nairobi. Indeed, as we look though this Finance Bill, remember it affects you in terms of your operation and in terms of the people you represent in Nairobi. It affects all of you; the 127 members representing the city of Nairobi. Hon. Otieno Elias

**Hon. Leader of Majority (Mr. Elias Otieno):** Thank you, Mr. Speaker for giving me this opportunity to support the Bill. I am supporting the Bill, because our people are waiting for us to deliver the services that we promised. Let us not stand here and start— (*Loud consultations*)

**Hon Speaker:** Order Members!

**Hon. Leader of Majority:** Can you protect me, Mr. Speaker, from the wrath of this people?

**Hon. Speaker:** Hon. Members order! Hon. Members, allow each and everyone in this House to throw a coin in this Finance Bill. Order Member! This is a very small matter, smooth; it's like a cup of tea. We are only discussing the motion.

**Hon. Leader of Majority:** Mr. Speaker as a senior person of this House I would like you to – (*Loud consultations*)

**Hon. Speaker:** Order Members! Hon. Leader of the Majority! Hon. Members, this was very simple. It was a cup of tea. It is just what the chairman of the committee had asked on behalf of all of you. Hon. Members, I now call upon the mover of the motion to reply. Order Member! We are neither discussing the

motion nor debating it. (*Loud consultations*) Order Members! Order Chairman of the Chairmen, Deputy Speaker, order Members!

**Hon. Michael Ogada:** Thank you, Mr. Speaker. Members I think what I didn't request is that when the Bills are read for the first time, they are supposed to be committed to the committee, so that the committee can go through them and that was why I was requesting we be allowed not to go through the Bill again because we had gone through it. It was as simple as that. It is a committee procedure that all Bills should be committed to relevant committees, and this was committed to my committee. So it's my committee which is supposed to go through it, which is saying we have gone through it and we are going to table our report in this House tomorrow so that we can debate the report.

So, you can have chance to debate, when we bring the report. We are debating what is not yet tabled before the House. It is a matter of you allowing me to bring the report tomorrow, look at the report and debate it. So we intend to table the report tomorrow. I am glad because Members have heard and actually that was what my committee wanted and what I was requesting so that we don't waste a lot of time. We need to get time discuss the Bill and change what you want, tomorrow. That was what I was requesting. Thank you very much, Mr. Speaker.

**Hon Speaker:** Hon. Members the Bill is back again to the committee of budget and appropriations and what they have asked us here today is very simple and clear, to exempt them from the normal committee sittings. Hon. Members, I now put the question that pursuant to provision of standing order number 228, this assembly resolves to exempt the Nairobi County Finance Bill, (Nairobi City County Bill No. 2 of 2013); the Nairobi City County Provisional Collection of Revenue, (Nairobi City County Bill No. 3 of 2013) and the Nairobi City County Tax Waiver Administrative Bill, (Nairobi City County Bill No. 4 of 2013) from the Provision of Standing Order No. 121. And as many as are of that opinion say 'aye' and as many as are of the contrary opinion say 'nay'. The 'ayes' have it.

*(The procedural motion was passed)*

Next order please....

**Interim Clerk:** Order No. 12; The Nairobi City County Provisional Collection of Revenue Bill, (Nairobi City County Bill No. 3 of 2013), An Act of the Nairobi City Assembly to give statutory effect for limited period to orders of the Executive member of Finance imposing any new tax or duty or rate of tax or duty or creating any new allowance or altering or removing any existing tax or duty or any such rate or allowance and for connected purposes, Second reading.

**Hon. Speaker:** The Hon. Chairman....

**Hon. Michael Ogada:** Thank you, Mr. Speaker sir.

**Hon. Speaker:** Order Member! Hon. Members, as the chairman comes to move that this particular Bill be read a second time, you will have the floor. Hon. Chairman.

**Hon. Michael Ogada:** Thank you, Mr. Speaker sir once again. Mr. Speaker sir, I beg to move that the Nairobi City County Provisional Collection of Revenue Bill that is Nairobi City Assembly Bill No. 3 of

2013 be now read for the second time. Mr. Speaker sir, the essence of my requesting that we read this bill; Provisional Collection of Revenue Bill, for the second time is two way:

One; the County Government is allowed to have a provisional Bill before the Finance Bill is passed so that it allows or enables the County not to lose revenue. And take into account that we have not discussed and passed the Finance Bill which might drag when we bring it to the House tomorrow. We did present our Appropriation Bill that was passed several weeks ago. The Appropriation Bill of this County is to the tune of 25 billion Kenya Shillings. And as a result of that we are expecting to get funded from the central government to a tune of Ksh9.3 billion of which Ksh300 million is conditional grant. Therefore we have got no freedom to spend it. So we only expect from the central government 9 billion. If you remove that figure from the Ksh25 billion, you will realize that this County needs to raise around Ksh16 billion within 12 months in order to remain afloat and also to meet all our expenditure.

Today as we speak, we are in the second month which is ending almost next week. So we have lost two months and if you do your calculations you will realize that every month we are expected to raise between Ksh1.5 billion and Ksh1.6 billion every month. So if we have spent two months without any realistic revenue collection then it means we have lost around 3 billion Kenya shillings.

Therefore, that is why my committee is requesting that as we ponder around the Finance Bill, let us first of all give the County government authority to start collecting revenue. Because if they collect revenue without a bill, it is illegal and they can be challenged in court. So for us to fight the illegality, we need to allow them to start collecting and receiving revenue. As soon as we pass the Finance Bill, this Provisional Revenue Collection law will then be overtaken and the Finance Bill will be applicable. So that is my committee's request, Hon. Members. It is for our benefit because we are elected members; we need to represent our people; and we need to offer services to the people.

When it comes to the issue of finances, it goes beyond us. It goes beyond our parties and it goes beyond the city. So, let us debate this thing with the levelheadedness that it requires so that it be passed and we allow the County to succeed. If it fails, it is not 'him' and 'them' who have failed, but you who have failed. Therefore, please, let us pass it so that we are not blamed for having failed. Thank you very much Hon. Members as you plan to pass it. I wish to call Hon. Njoroge Kairu to second the motion.

**Hon. Member for Woodley Ward (Mr. Njoroge Kairu):** Thank you very much, Mr. Speaker sir. Allow me to support the motion knowing that right now our County government is at a standstill. We are not collecting revenue because if we do so we will be going against the law. So, please Mr. Speaker, you have heard what the Chairman said, that we have a deficit of Ksh16 billion and already we have wasted two months. So if we want to achieve what we have budgeted for in our budget, we have to start collecting the revenue. Therefore, Mr. Speaker, I beg to support the motion.

**Hon. Speaker:** Hon. Members, I can see Hon. Hashim Kamau looking at me with very red eyes. I think he wants to go and play football. But first we have a few minutes and then he can go and play football with Kakamega United. Hon. Members, I now propose that the Nairobi City County Supplement No. 3 Bill No. 4 be interrogated.

**Hon. Pius Otieno** (Sarango'mbe Ward): Thank you, Mr. Speaker, for having noticed me. I hereby stand to support this Bill because of the monumental 'impotence' that we as a county have and actually the enormity of the task that we have ahead. But it is also important for the House to understand that as we shall be passing.....(*Interruption*)

**Hon. Speaker:** Hon. Member did you use the word 'impotence'?

*(Laughter)*

Can you clarify that please, Hon. Member?

**Hon. Pius Otieno:** Well 'importance' is from the word 'important'. Therefore, the import of this Bill we are now discussing, Mr. Speaker, all these words are found in the Oxford dictionary; these are not words that I have created. So as we discuss this Bill Mr. Speaker, and also support it, traditionally the Nairobi City County was collecting huge amounts of monies but that money was not trickling to the benefit of the citizens or the public at large. So I would also like to recommend to that committee; the Budget and Appropriation Committee, that while they shall also be going through this matter, it is important that we also put measures that are going to ensure that we realize what we call financial discipline in as far as collection and expenditure of this money is concerned.

It is important that we also insulate the public from wastage and pilferage. We must actually channel money where the members of the public want it and we must not be seen, in the light of other counties, that we do not understand what the people of Nairobi want. It is important that we understand the science and art of prioritization. That is why you hear from the media that many people are condemning the county governments for failing to prioritize. But I want us to live beyond expectations of the people living in Nairobi. That we can prioritize, we can budget and we can as well assess where the needs of Nairobi are.

Last but not least, the cardinal reason why we should be supporting the collection of revenue bill, is that it is in public knowledge that there is a fight against devolution and it is important that we take off at the best speed possible. Once we are able to collect this revenue, it is imperative that the people living in Nairobi see the importance of the revenue collection principle by this money trickling down to service provision for the very people who voted in this government. Let us note that this is part of the Medium Term Expenditure for this County government. Mr. Speaker sir, I beg to support.

**Hon. Leader of Minority** (Abdi Hassan Ibrahim): Thank you Mr. Speaker sir for giving me this opportunity. I would like to stand on Standing Order No. 28 (1); I want this House to adjourn because we have an important issue to undertake at around 4.00 p.m. The County of Nairobi has a match against the County of Kakamega. Mr. Speaker sir, I do ask this House to adjourn until tomorrow. Thank you, Mr. Speaker and I do wish to ask Mr. Chege to support me. Thank you, Mr. Speaker.

**Hon. Speaker:** Point of order, please.

**Hon. Samwel Nyang'wara:** Mr. Speaker, I am standing on point of order No. 74 which requires me to address you and this pertains to an exercise that is going on. The members from the constituencies that we come from have requested this honourable Assembly to extend the dateline for submission of applications for the posts we advertised in the newspaper. The constituents in our wards say that they came to learn about the advertisement from the Hon. Members very late, yesterday. Even the way the application was put in the newspaper was actually wanting and Mr. Speaker.....(*Interruption*)

**Hon. Speaker:** Hon. Member that was very unfortunate for a Member to disrupt the motion. We are on the motion and what was put on the newspaper cannot be reversed. Go on, on a point of order.

**Hon. Kilimani Ward (Mr. Moses Ogeto):** Thank you Mr. Speaker sir. I want to address my fellow Members who would like to go and play football. Mr. Speaker we are discussing a very important motion and we cannot allow footballers to go and play football in their stadium. I beg to oppose what my Hon. Member is trying to propose in the Assembly.

**Hon. Member for Ngara Ward (Mr. James Chege):** Thank you, Mr. Speaker. My good friend Hon. Ogeto was debating on a motion which has not even been seconded. So, the motion was not properly before the House, it was not seconded. It was just proposed. It was an adjournment motion, Mr. Speaker. I thank you for giving me the opportunity to second this motion. I also want to plead with our Members with reference to Standing order No. 29, I was saying that the Leader of Minority was standing on Standing Order No. 28 that talks of us adjourning the house and in supporting it I am using Standing Order No. 29 that says that, "*The debate shall continue right at the point where we left it*". So it's not that we are trying to short-circuit any motion here. It is just that we have people standing in the field who came all the way from Kakamega. We are good, I know you have been in football for a long time and it is your passion also to be there. So, Mr. Speaker, give us time so that tomorrow we can report here. Thank you very much.

**Hon. Speaker:** Order Member! Hon. Mbithi, please.

**Hon. Member for Kahawa Ward (Mr. Amos Mbithi Mukami):** Mr. Speaker sir, is it in order for the Member to stop the Assembly business and adjourn a very crucial and important motion because of football? Save me! Save my time!

**Hon. Speaker:** Hon. Members, I wish to bring to the attention of the Members that Hon. Chege went to Standing Order No. 28 and 29 but No. 28(2) reads; "*If the Speaker is of the opinion that such motion for adjournment of the County Assembly is frivolous, vexatious, or an abuse of the proceedings of the County Assembly, the Speaker may forthwith put the question thereon or decline to propose it.*"

Hon. Members you have stood and I have listened to you. The reason that you want to adjourn this very important motion is to go and play football. While it is a noble idea, this could have come to the attention of the Speaker before the proceedings started. However, I wish to call upon the Leader of the Majority to move the adjournment.

**Leader of the Majority:** Thank you, Mr. Speaker for allowing me to move the adjournment for today because it is very important for our players within this Assembly. We have 'small boys' here who



want to go and play football. This is the big reason for their desire to adjourn. They want to interact and there is some eleventh commandment they want to follow to the letter. So, Mr. Speaker, I beg to move the motion of adjournment for today through your permission.

**Leader of the Minority:** Mr. Speaker sir, before I second, I want my colleague to withdraw the word 'small boys' and use proper language, Mr Speaker sir.

**Hon. Speaker:** Hon. Members, Order Members! I did not hear that because so far there is too much noise going on. I now put the question that the motion on Bill No. 3 be adjourned to tomorrow at 2.30pm. And I now put the question that as many as are of that opinion say 'aye', as many of the contrary opinion say 'nay'. The 'ayes' have it. Order! Hon. Members don't forget that your opponents can cause it to rain before you reach the stadium.

*(The House rose at 3.45pm)*