



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Second Session

Tuesday, 15<sup>th</sup> April, 2014

The House met at 2.30 p.m.

*(Mr. Speaker in the Chair)*

#### PRAYERS

#### PAPERS

The following Paper was laid on the Table:

The Nairobi City County Public Service Board Annual Report for 2013

**Hon. Leader of Majority** (Mr. Elias Otieno Okumu): Thank you, Mr. Speaker, I beg to lay the following Paper on the Table of the Assembly today, Tuesday 15<sup>th</sup> April, 2014; The Nairobi City County Public Service Board Annual Report for 2013. So, I beg to Table the Paper.

#### NOTICES OF MOTION

#### NOTICE – MOTION ON 30% COUNTY TENDER AWARDS TO YOUTH, WOMEN AND VULNERABLE GROUPS

**Hon. Speaker:** The Hon. David Mberia.

**Hon. Chief Whip of Majority** (Mr. David Mberia): Thank you, Mr. Speaker sir, I beg to give Notice of the following Motion; that, **AWARE** that the County Government has expressed its support and willingness to adhere to the requirements for the award of at least 30% of all County tenders to the youth,

women and vulnerable groups; further **AWARE** that the initiative is timely and crucial in mitigating unemployment and poverty amongst young Nairobi residents; serious capital challenges have arisen making it impossible for the favored groups to supply the goods required in various tenders; deeply **CONCERNED** that the target groups don't always necessarily have the capital to take care of Local Purchase Orders (LPOs) issued to them amounting to millions of shillings and thus losing out on the tender awards; **NOTING** that the LPOs can be used as guarantee against Bank loans to ensure banks don't suffer losses by deducting monies from the said group's accounts once paid for supplying goods, while enabling the Nairobi County youths to access financing facilities for their businesses; this Assembly urges the Nairobi County Government to consider partnering with friendly Commercial Banks where the said groups hold accounts in order to provide loans against LPOs issued by the Nairobi City County Government which can then be repaid when the goods are supplied and the LPO paid for by the County Government to enable the target groups benefit fully from the 30% allocated to them. Thank you, Mr. Speaker sir.

**Hon. Speaker:** Thank you, Hon. Mberia.

### STATEMENTS

**Hon. Speaker:** The Hon. Kamau Thuo. Sorry, please just hold on. Sorry, these are responses. I beg your pardon these are not Statements but these are responses to Statements. Namely Statements requested by the Hon. Kamau Thuo from the Chairperson of the Sectoral Committee on Labour and Social Welfare regarding the re-advertisement of the position of Director of Human Resource Management by the Nairobi City County Public Service Board; the Chairperson, Sectoral Committee on Labour and Social Welfare.

### RESPONSE TO STATEMENT ON THE RE-ADVERTISEMENT OF POSITION OF DIRECTOR, HUMAN RESOURCE MANAGEMENT BY NAIROBI CITY COUNTY PUBLIC SERVICE BOARD

**Hon. Member for Viwandani Ward (Mr. Samuel Nyang'wara):** Mr. Speaker, I am standing on behalf of the Chairman of Labour who is out of this City, and I therefore respond as follows: On Tuesday 4<sup>th</sup> of March, 2014 Hon. Kamau Thuo, MCA, Member of Karura Ward, rose on the floor of this Assembly pursuant to Standing Order number 41(2c) and requested from the Chairperson of Labour and Social Welfare Committee a Statement regarding the re-advertisement of the position of Director, Human Resource Management by the Nairobi City County Public Service Board.

In the Statement Mr. Speaker, the Member sought to know the following:

1. Reasons for re-advertisement of the position of Director of Human Resource Management;
2. List of all applicants and shortlisted applicants for the above mentioned post;
3. The list of appointments done by the Public Service Board since its inception.

Mr. Speaker, the Committee wrote to the Secretary of the Nairobi City County Public Service Board on the same day of March, and the reference letter is quoted, requesting to be furnished with the written response to the Statement by Hon. Kamau Thuo. Mr. Speaker sir, the response was tabled on the floor of the House on 6<sup>th</sup> March. However, Hon. Thuo was dissatisfied with the response and requested the Chairman of the Committee to further enquire into---

**Hon. Speaker:** Order, Hon. Kagiri! Order! Follow the right way to move from the left side of the House to the right side, in future.

**Hon. Samuel Nyang'wara:** Thank you, Mr. Speaker.

**Hon. Speaker:** Go ahead.

**Hon. Samuel Nyang'wara:** Mr. Speaker, the response was tabled on the floor of the Assembly on 6<sup>th</sup> March. Hon. Thuo requested for further inquiry into the required qualifications for the position of the Director of Human Resource Management, qualifications of the three candidates that were shortlisted for the interview, reasons for their rejection and criteria that was used to shortlist them.

In this regard, Mr. Speaker, I wish to report to the Assembly as follows; that the position of Director of Human Resource Management was advertised in the media on 23<sup>rd</sup> of March 2013 and twenty applicants responded to the advertisement. The Hon. Member may refer to the list of candidates in the appendix 1, attached. I think, the Hon. Member has got the answer already in his hand.

Mr. Speaker the above mentioned position and the required qualifications were as follows:

1. Must have served for at least two years under job group 'P' or above in the field of Human Resource Management in the Public Service;
2. A bachelor's degree in Social Science from a University recognized in Kenya;
3. One must have attended a Strategic Leadership course in a recognized institution;
4. One must have proficiency in computer applications;
5. He/she must be in a position to demonstrate professional competence, management and administration capabilities and initiative in general organization and management of the Human Resource;
6. Conceptual, analytical, leadership and report writing skills. That one was also a requirement that one was supposed to have;

7. Commitment and continuous learning and be result oriented.

Besides the above needed qualifications, Mr. Speaker, it was also made clear that the possession of a relevant Masters Degree would be an added advantage for the job. The County's Public Service Board went through the applications from the entire 20 applicants. Only three candidates met the minimum requirements for the advertised posts and hence were shortlisted for the interview.

The three candidates, Mr. Speaker, were:

1. Phoebe Makungu
2. Halima Bakari Sala
3. Kimuyu Mary Nzilani

Mr. Speaker, according to the Public Service Board, the performance of the three candidates during the interview in regard to their past performance and experience did not demonstrate the required professional competence, managerial and administrative capabilities and initiative in the general organization and management of Human Resource as required by the Board.

Mr. Speaker sir, in particular the Secretary of the County Public Service Board stated that none of the three candidates had worked for at least two years at the job group 'P' or an equivalent job group in the field of Human Resource Management in the Public Service as was specifically indicated in the advert for the said position.

Due to the shortfall the Nairobi City County Public Service Board did not find any of the three candidates suitable for the post. For that reason, Mr. Speaker, the Board unanimously decided that the position be re-advertised. Attached herewith, Mr. Speaker, are the academic, professional qualifications and the employment history specifically for the three candidates who were shortlisted and thereafter rejected.

Mr. Speaker, the following appointments and recommendations for appointments have been made so far by the Nairobi City County Public Service Board—

**Hon. Speaker:** Hon.?

**Hon. Samuel Nyang'wara:**---since its establishment---

**Hon. Speaker:** Hon. Member, I think what was in contention---

**Hon. Samuel Nyang'wara:** Has been answered already, Mr. Speaker.

**Hon. Speaker:** You have already answered that?

**Hon. Samuel Nyang'wara:** Yes.

**Hon. Speaker:** And I hope the Hon. Member for Karura is satisfied.

**Hon. Samuel Nyang'wara:** He is and he had amended before---

**Hon. Speaker:** Thank you very much, Hon. Nyang'wara.

**Hon. Member for Karura Ward (Mr. Stephen Thuo Kamau):** Thank you, Mr. Speaker, and I appreciate the work of the Chairman. I would also want to declare my interest on this issue and I am not holding any brief for anyone here, Mr. Speaker.

**Hon. Speaker:** Order! Hon. Thuo, did you say you have interests? You declared your interests?

**Hon. Stephen Thuo Kamau:** Yes sir, I have declared my interest and I have said I am not holding any brief for anyone as far as this question is concerned. I would also request that you allow me on Thursday, this Thursday, to further interrogate the Statement and also ask subsequent questions on the same.

**Hon. Speaker:** Go on, Hon.

**Hon. Stephen Thuo Kamau:** Mr. Speaker, I just want to seek for--- a very simple request from you, that you allow me to interrogate this Statement on Thursday this week.

**Hon. Speaker:** Would you be--- Hon. Thuo, would you be very specific with what you want so that we can ask the Labour---

**Hon. Stephen Kamau Thuo:** Yes, Mr. Speaker, I am sure you have also gone through the Statement---

**Hon. Speaker:** Yes?

**Hon. Stephen Kamau Thuo:** ---and as far as the qualifications of the applicants are concerned, they are up to par. As far as the issues of integrity are concerned, Mr. Speaker, they are at par. I wanted to refer Nyang'wara to part (d)---

**Hon. Speaker:** Hon. Nyang'wara, please.

**Hon. Stephen Kamau Thuo:** ---Hon. Nyang'wara, to part (d) of the question, considerations of the 3 candidates bearing in mind that you had already shortlisted the three. You are saying that the reason why

you re-advertised this position is because none of the three candidates had worked for at least two years at job group 'P' or an equivalent job group in the field of Human Resource Management in Public Service.

Mr. Speaker, that is the issue of contention and I would also want to refer the Hon. Nyang'wara to-- - you have not numbered this--- where we have the academic qualification and professional qualification, that page. Mr. Speaker, I don't know what job group 'P' translates into as far as the Member is concerned because the three applicants here, have served in positions that are above job group 'P'. So, my question is; which other job groups 'P' were you seeking for these members to have served in, because starting with Phoebe there; Halima; there is Mary there; they have all served in very senior positions as far as Human Resource is concerned, Mr. Speaker? That is the issue of contention.

**Hon. Speaker:** Order! Hon. Thuo; *"Mr. Speaker sir, in particular the Secretary of the County Public Service Board stated that none of the three candidates had worked for at least two years at the job group 'P' "* Is that what you were contesting?

**Hon. Stephen Kamau Thuo:** Yes, yes and then he goes ahead and says, *"or an equivalent job group in that field of Human Resource"*, and I would want to refer you to the--- I think it's the last page, whereby the qualifications of the applicants, the professional background and also the employment history is provided, Mr. Speaker. There is such a page, Mr. Speaker.

**Hon. Speaker:** Yes, Hon.?

**Hon. Stephen Thuo Kamau:** I would want also to refer to Phoebe Makungu whereby from the year 2007 to 2009 she served as a Chief Human Resource Officer in the Ministry of Labour, Mr. Speaker. The Ministry of Labour is a Public Service Office, Mr. Speaker. When we also look at Halima; from the year 2011 to 2013, Mr. Speaker, she has been serving in this Council at an equivalent job group. So, in short the Member is misleading this House and there is more than meets the eye in what the Hon. Member has reported in this House, Mr. Speaker. That is the issue of contention.

**Hon. Speaker:** Order, Hon. Nyang'wara! Hon. Thuo, can you be specific on what you want to be brought back to the Assembly? Hon. Thuo.

**Hon. Stephen Thuo Kamau:** There are only two ways about this, Mr. Speaker, and I had requested that you give me more time to scrutinize the document and on Thursday--- that is just one way, or Hon. Nyang'wara tells us what they mean by job group 'P' because it is clearly stated that these people have served in that job group 'P'.

**Hon. Speaker:** Hon. Thuo, you know you have already interrogated this. Actually you have interrogated it, I think to the point that you only want to be told about the job group 'P'.

**Hon. Samuel Nyang'wara:** I can respond to that.

**Hon. Speaker:** Order, Hon. Nyang'wara!

**Hon. Stephen Thuo Kamau:** Hon. Speaker, you know the problem here or the challenge here is that we are being given information that is not at par. You remember I also asked for an insert of the newspaper advert and if you go through that insert that issue of job group 'P' was not there, Mr. Speaker. It has only been sneaked into the Statement now, Mr. Speaker. That is the issue of contention.

**Hon. Speaker:** Hon. Nyang'wara.

**Hon. Samuel Nyang'wara:** Thank you, Mr. Speaker, the Hon. Member should actually tell this floor the truth if he actually saw the advert in the newspaper. I want him to get me very clearly. Only three candidates--- that's on page three, only three candidates met minimum requirements. I would like you, Hon. Thuo, to underline the word minimum. Minimum requirement and the bar was maximum. If you read the advert, Mr. Speaker, I think the Hon. Thuo, clearly stated here--- and when I was talking to him in the morning, he actually told me he has an interest in this particular job and he has again stated it here, very clearly that he has an interest. Mr. Speaker he should---

**Hon. Stephen Thuo Kamau:** Mr. Speaker.

**Hon. Speaker:** Order! Order, Hon.! Order, Hon. Thuo! Order, Hon. Thuo!

**Hon. Samuel Nyang'wara:** Mr. Speaker you heard him, even the HANSARD can say he said he has got interest---

**Hon. Speaker:** Order, Hon. Thuo!

**Hon. Samuel Nyangwara:** ---he has got interest in this particular issue, Mr. Speaker, and that's the job---

**Hon. Speaker:** Hon. Nyang'wara!

**Hon. Samuel Nyang'wara:** ---the three---

**Hon. Speaker:** Order, Hon. Nyang'wara! Order! I think I'll make a ruling in this regard and can we have the issue of group 'P' answered so that---

**Hon. Samuel Nyang'wara:** Mr. Speaker---

**Hon. Speaker:** Order, Hon. Nyang'wara! We want the issue of job group 'P' dealt with, because that is what the Hon. Member has asked in his Statement. If you read his Statement he wants to know the

issue of job group 'P' and I think it's important that we have--- and also I remember I asked the Member what he meant by he has 'interest'. That one was not clearly answered and Hon. Thuo--- yes, Hon. Thuo I asked you, you have clearly said you have an interest---

**Hon. Stephen Thuo Kamau:** Can I clarify, Mr. Speaker?

**Hon. Speaker:** Order, Hon. Thuo! Hon. K'Otieno and then Hon. Thuo.

**Hon. Member for Sarang'ombe Ward (Mr. Pius Otieno):** Thank you, Mr. Speaker, as the Chairman of that Committee, I would be delving into the details of Hon. Thuo. I have a supplementary question on that. I want him to confirm or deny if one Bakari Sala is still an employee of this County, because rumor has it that she is in Mombasa. Can he confirm or deny to that extent or to that effect?

**Hon. Speaker:** Order, Hon. Thuo!

**Hon. Stephen Thuo Kamau:** I want to answer him, Mr. Speaker.

**Hon. Speaker:** You can't answer, you are not part of the Board of the--- you are not a member of the County Service Board. Hon. Nyang'wara, please?

**Hon. Samuel Nyang'wara:** Thank you, Mr. Speaker, as far as the issue that the Hon. K'Otieno has raised is concerned; that one is neither here nor there. If Bakari Halima is in Mombasa, that's her own business. We are concerned with the employees of this particular County; the Nairobi City County, Mr. Speaker, so we cannot confirm or---

**Hon. Speaker:** Order, Hon. Chairperson of Trade! Order! Order, Hon. Warutere!

**Hon. Samuel Nyang'wara:** We cannot confirm or deny the allegations, Mr. Speaker.

**Hon. Speaker:** Order! Order, Hon. Warutere! Warutere, Chairman Trade!

**Hon. Samuel Nyang'wara:** Mr. Speaker, we cannot confirm or deny the allegations that---

**Hon. Speaker:** Hon. Nyang'wara, order! Order! I think this is the Statement the Member sought to know from the County Service Board or from the Chairman of the Labour Committee:

1. Reason for re-advertisement of the position of Director of Human Resource Management;
2. List of all applicants and the shortlisted applicants for the mentioned post;
3. List of all appointments done by the Public Service since its inception.



Since the Member is not--- he is not worried about the number three, he has read it and he found me in my office today reading it, therefore most of the questions that would have arisen, I think, have been adequately answered in 1 and 2. I think the question has been answered and therefore I want to rest this.

Hon. Thuo, I will allow you to interrogate this on Thursday and Hon. Nyang'wara on behalf of the Labour Committee, please bring us the issue of job group 'P'. It is so ordered. Next, order?

Order! Hon. Nyang'wara, order! Can we proceed? Where is Hon. Manoah Mboku? This is again the Sectoral Committee on Labour and Social Welfare regarding Divisional Commanders, Divisional Managers and Ward Managers of the Nairobi City County Wards.

### **RESPONSE TO STATEMENT ON DIVISIONAL COMMANDERS, DIVISIONAL MANAGERS AND WARD MANAGERS OF THE NAIROBI CITY COUNTY WARDS**

**Hon. Member for Lower Savannah Ward (Mr. Alfred Ambani):** Thank you, Mr. Speaker sir. Response to Statement requested by the Hon. Manoah Mboku, MCA, Member for Nairobi South Ward, from the Chairperson of Sectoral Committee on Labor and Social Welfare: Mr. Speaker sir, on Thursday 5<sup>th</sup> of December, 2013 the Hon. Manoah Mboku MCA, Member for Nairobi South Ward, rose on the floor of the Assembly pursuant to Standing Order 41(2c) requesting the Chairperson of Labor and Social Welfare Committee for a Statement regarding Divisional Commanders, Divisional Managers and Ward Managers of the Nairobi City County Wards. He further asked the Chairperson to enquire into and report on:

1. The names of all Divisional Commanders, Divisional Managers and Ward Managers of all Wards in Nairobi City County;
2. What are their qualifications?
3. The criteria used in appointing or nominating them;
4. Whether they met regional and gender balance as required by the Constitution of Kenya.

Mr. Speaker sir, the Committee wrote to the County Executive Committee Member responsible for the Public Service Management on the 31<sup>st</sup> March, 2014 in a letter Ref: LSWLAB/10/2014 requesting to be furnished with the written response to the Statement by the Hon. Manoah Mboku, MCA.

In this regard, Mr. Speaker sir, I wish to report to the Assembly as follows:

#### **Ward Administrators**

Mr. Speaker sir, the names of the Ward Administrators of the Nairobi City County Wards, according to the letter by the County Secretary dated 8<sup>th</sup> April, 2014 and Ref: CS/ LWN/ 310/ PNN/2014 are stipulated in this report. In the report, Mr. Speaker sir, the Hon. Member will be able to find:

1. Names of the Ward administrators;
2. Their respective Wards;
3. Their designated positions;
4. Their qualifications and also;
5. The Administrator contacts.

### **Divisional Managers**

Mr. Speaker sir, with regard to the Nairobi City County Ward Managers, there are nine Ward Managers all under the job title of Superintendent II. In the report, Mr. Speaker sir, the Hon. Member will also be able to access the following information:

1. Names of Division Manager;
2. Their Rank and Job Title;
3. Their Respective Division and;
4. Their Academic and Professional Qualifications.

### **Sub- County Administrators**

Mr. Speaker sir, still in the same report there is still a list of 17 Sub-County Officers and the Hon. Member can access detailed tabulated report relating to:

1. The names of Sub County Administrators;
2. Their respective Sub County areas;

Mr. Speaker sir, I need your attention. Thank you.

3. Their designation and rank;
4. The officers' contacts and their qualifications as was requested by the Hon. Member.

Mr. Speaker sir, it is worth noting that the report from the County Secretary did not address the questions on the criteria used to appoint and nominate the officers and whether they meet the regional and gender balance as required by the Constitution of Kenya 2010. Further, a letter has been done requesting for the information and will be tabled as soon as response is received. Mr. Speaker, I beg to lay this response, thank you.

*(Applause)*

**Hon. Speaker:** Hon.--- Order! Hon. Mboku, order! Hon. Mboku, order! Hon. Members, you have heard the Chairperson's comment and therefore what we have before us here is incomplete--- *(Applause)*

and it will be a waste of time for the Hon. Manoah Mboku, who asked this question, to come forward whilst we have been told by the Chairperson of the Committee that, “ *It is worth noting that the report from the County Secretary did not address the question on the criteria used to appoint or nominate the officers and whether they met the regional and gender balance as required by the Constitution of Kenya 2010. Further, a letter has been done requesting for the information and will be tabled as soon as the response is received.*”

That is the verbatim from the Chairperson of the Labour Committee. Therefore I do order that by Thursday, we have a full answer to the question by Hon. Manoah Mboku. Next?

Further, the Secretary should be told that it is a serious matter and half-baked information will not be accepted in the House. Proceed. Hon. Members, earlier on we had a Communication from the Chair but we would not have done it because the Communication was not at that particular moment ready.

### COMMUNICATION FROM THE CHAIR

Hon. Members I have the following Communication to make:

#### Visiting delegation from Uganda

Hon. Members, our sitting this afternoon is graced by a delegation from the Republic of Uganda, who paid us a visit to benchmark on several key areas of our operations as a County Assembly and the operations of the larger County Government. The delegation from the Kampala Capital City Authority (KCCA) is comprised of Hon. Members of the Kampala Capital City Authority, who will hopefully interact and engage with the relevant Departments and Committees of the Assembly.

The delegation consists of:

1. The Hon. Byaruhanga Bruhan;

*(Applause as Hon. Bruhan bows)*

2. The Hon. Namugenyi Hawa;

*(Applause as Hon. Hawa bows)*

3. The Hon. Mujuzi Joseph; and

*(Applause as Hon. Muluzi bows)*

4. The Hon. Lukwaya Henry.

*(Applause as Hon. Lukwaya bows)*

Hon. Members, by way of introduction, the KCCA is the largest entity established by the Ugandan Parliament, that is responsible for the operations of the Capital City of Uganda, Kampala. It replaced the former Kampala City Council (KCC). Hon. Members, on behalf of Nairobi City County Assembly family, I wish to give a warm welcome to the Hon.Councilors. Feel welcome and enjoy your experience in Kenya, and Nairobi in particular.

Thank you and welcome. Could you welcome them please? *(Applause)* Thank you, Hon. Members.

**Interim Clerk** (Mr. Jacob Ngwele): Order number 8;

**Hon. Member:** Point of Order!

**Hon. Speaker:** On? On? We are in Order Number 8; Bills. Therefore, what is your Point of Order for, since we are in the middle of the order? Could you please, wait? Could you wait? Hon. Members; the Nairobi City County Betting, Lotteries and Gaming Bill, 2014 (Assembly Bill No.1 of 2014).

As you are aware this Bill was read the second time. So we resume the debate that was interrupted on Tuesday, 25<sup>th</sup> March, 2014 at 2.30 p.m. Question proposed---

*(The Clerk consults with the Speaker)*

**Hon. Speaker:** So, Hon. Members, it is the continuation of the debate on the Betting, Lotteries and Gaming Bill. Hon. Members, Hon. K'Otieno.

### **RESUMPTION OF THE DEBATE ON THE BETTING, LOTTERIES AND GAMING BILL – SECOND READING**

**Hon. Pius Otieno:** Thank you, Mr. Speaker, once again. As I stand to support this Motion I want to say that this is one sector that has not been regulated very well and especially in this new dispensation where this function has been devolved to the County Government. I support this Bill simply because other than this sector not being regulated well, this is one of the sectors that is very helpful in so far as revenue collection is concerned.

Initially it was the National Government that was taxing this particular sector. With the enactment of the new Constitution, I want to say that the County is opening avenues for revenue collection and it is also busy trying to streamline and bring in some sanity. It will therefore, be very important for us also to undertake to approve this Bill. However, it would be prudent to allow the people who will be affected by this Bill, ample time and opportunity to go through the Bill. This is because even today while we were in our several Committee meetings, there were members from a certain market who were busy, outside there,

protesting. Protesting is one's democratic right but when we have serious protests and many protests within the city, that is bad in so far as the economy and even the growth of Nairobi as a County is concerned.

So, I would wish to say that if all members of this particular sector have been consulted and probably they are in agreement with the taxes that will be imposed in so far as the running and managing of betting, lotteries and gaming is concerned, then I will have no problem. My sentiments are informed by the recent past experience with the Finance Bill that was passed and now is an Act. After the passage of that Finance Act, there was a lot of hue and cry and the hue and cry probably was informed by the position of this House because by then there was no active engagement with the citizen. We were doing this thing in a rush and we wanted to beat the deadline. However, now that there is that ample time and ample space, in as much as the Executive could be imposing some tax, I would also want us to be lenient to those people who are in this sector, so that after we have passed this, we will not come back and regret when we see people now demonstrating and protesting saying that, we have imposed a higher tax and that certain categories of people were not well involved in this process.

If you look at the world over, other than where betting, lotteries and gaming is concerned, there are also sports lotteries. I would also wish again to implore the Executive that if they will find time, let them also have a Bill that will also give leeway to people who like sport gaming. There is also sport gaming where you bet for example that Manchester will beat Arsenal 6 goals to 1, or Chelsea will beat Manchester 4 goals to 2; so that when people would be betting in such an atmosphere they do it freely unlike when there is no particular legislation that is governing such kind of sector. So, Mr. Speaker, to me I support this Bill and I support the work that has been done by the Committee and the Chairman in particular, Mr. Ronald Milare. This Bill is timely in so far as sanitizing this sector is concerned. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Imwatok.

*(Loud Consultations)*

**Hon. Speaker:** Order! Order, Hon. Kambi! Order!

**Hon. Member for Makongeni Ward (Mr. Peter Imwatok):** Mr. Speaker, protect me from Kambi and *Mheshimiwa*, the president of the poor; the defunct president of the poor, because he has started becoming a rich man. Mr. Speaker, first and foremost I must appreciate the work of this Committee--- *(Loud consultations)* please, Mr. Speaker, protect me from the Leader of Majority and Deputy Speaker, --- for coming up with this Bill as a devolved function of the County.

Mr. Speaker, I will not have regrets in supporting this Bill, in particular there is nowhere it is going to affect the people of Makongeni, Kaloleni and Mbotela Ward because all the participants in this Bill are the people of the first class society and these are the people we want to target in doing what is called cost sharing within our County. I managed, one day to sneak into a casino, Mr. Speaker, and the amount of

money I saw on the tables is the kind of money that I have never seen in my life. *(Laughter)* Mr. Speaker, to me it does not matter---

*(Loud consultations)*

**Hon. Peter Imwatok:** Mr. Speaker, the Deputy Speaker, maybe if he has something to say he can say it openly because he is castigating me as I speak.

*(Loud consultations)*

**Hon. Speaker:** Order, Hon. Members! Continue, Hon. Imwatok, *Jateso*.

**Hon. Peter Imwatok:** Yes, thank you, Mr. Speaker, I appreciate when you call me *Jateso*. *(Laughter)* Mr. Speaker, as I was saying, I have never seen such an amount of money equivalent to the amounts placed on the table for the betting in the Casinos and by the passing of this Bill it means the deficit we have in our budget--- we know Safaricom takes care of all the betting and they get a lot of money and initially this law was with the central Government--- you can imagine how much the central Government was collecting from this and if we enact this law as quickly as possible it will make it paramount for the County to be able to collect this money from these people. Mr. Speaker, as the president of the poor, the defunct president says, it is important to broaden---

**Hon. Speaker:** Hon. Imwatok, I have not heard in the Constitution, where there is the president of the poor. *(Laughter)*

**Hon. Pius Otieno:** *Mashinani*.

**Hon. Speaker:** Order, Hon. K'Otieno! Continue, Hon. Imwatok.

**Hon. Peter Imwatok:** Thank you, Mr. Speaker. We appreciate so much the Chairman and the Committee for coming up with this Bill and I support it. It should be enacted as quickly as possible so that when we come to the next financial year we factor it in as a source of revenue for the County. I beg to support the Bill and I hope the majority will support me too, Mr. Speaker.

**Hon. Speaker:** Hon. Kambi.

**Hon. Member for Dandora Area II Ward (Mr. Stephen Kambi):** *Asante, Bwana Speaker, kwa kunipa fursa hii. Pia mimi sina budi ila kuunga mswada huu mkono. Zaidi, nina imani ya kuwa itakuwa mojawapo wa njia ya kupanua mipaka ya County hii ya Nairobi kuweza kupata mapato zaidi ili tuweze kutekeleza majukumu ambayo wananchi wa Nairobi wanangoja kwa hamu na ghamu. Ikiwezekana wenyenye waweze kugawa kidogo kwa sababu ya Dandora Casino, na siioni hivi karibuni, itakuwa sawa. Hiyo kodi ambayo tunatoza nina uhakika itafanya kazi Dandora na kwengineko. Kwa hivyo mimi ninaunga*

*mkono. Karura, tunajua ndiyo mmojawapo wa Wards ambazo zimehusishwa lakini hatupigi matajiri vita kwa sababu tunawahitaji. Kitu tunasema ni kwamba, kulipa ushuru ni kujitegemea. Ahsante, naunga mkono mswada huu.*

**Hon. Speaker:** Hon. Chairperson, Trade.

**Hon. Member for Roysambu Ward (Mr. Peter Warutere):** Thank you, Mr. Speaker, sir.

*(Loud consultations)*

**Hon. Peter Warutere:** I beg for your protection.

**Hon. Speaker:** Hon. Members, allow Hon. Warutere to continue.

**Hon. Peter Warutere:** Allow me and many other people who live in the--- Did he say cotton soil or red soil, where the Majority Leader and his fellow company live? In equity the rich must be prepared to share with the poor. *(Applause)*. Those who live in the red soil must be ready to share with those who live in the cotton soil and I can see the passion that is coming from the Hon. President of the poor, because we must help his people---

**Hon. Members:** Defunct.

**Hon. Peter Warutere:** Defunct, sorry.

**Hon. Pius Otieno:** Point of correction!

**Hon. Speaker:** Order, Hon. K'Otieno!

**Hon. Pius Otieno:** Speaker, allow me to correct him.

**Hon. Peter Warutere:** Protect me, Mr. Speaker.

**Hon. Speaker:** Order, Hon. K'Otieno! You are a very decent person--- Order, Members! Order! Order, Hon. Warutere! Hon. K'Otieno, you are a very decent Member of this House, do not allow me to take action against you. *(Applause)* Order, Hon. Members! Order, Hon. K'Otieno! Hon. Warutere.

**Hon. Peter Warutere:** Before I was rudely interrupted by Hon. K'Otieno, I was on the point of equity and why I personally want to support this Bill and it is so that the rich can share with others; the rich can give a bit of their wealth while entertaining themselves, so that the poor as well can live well and fairly. Therefore, I think it is with this information and matters of sense of purpose, that I think it is the right time

we try and redistribute wealth so that the Hon. Members who live on the other side can give their bit and allow us as well to catch up with them.

With this Bill, I have in mind the Majority and company, and you know that quite well. They live in the clay sides. With that regard, I think this Bill is purposeful. It will try to give a bit of cess to this County and once that is done we can be able to take, or rather to do a few things that need to be done within this County. With that, I beg to protect my people at whatever level and we have had a lot of consultations with the rich whom we also represent and they are more than willing to support this Bill. Thank you, Mr. Speaker, sir.

**Hon. Speaker:** Hon. Thuo and then Hon. Manyala.

**Hon. Stephen Thuo:** Mr. Speaker, thank you for the opportunity. As a Member who represents the rich in the society, they indeed do not have a problem in giving more taxes when they are enjoying themselves, Mr. Speaker. The Members must remember that we passed the Finance Act sometimes back but that Act is inadequate without having such an Act also coming into place, because what this Act will give us is a platform and an avenue to collect money from the rich people in the town. I would also want to encourage my good friend, Warutere, by saying that no one is preventing him from joining that class of those people who play these games. As you have observed, Mr. Speaker, most of the Members are in agreement that this should be an Act of this Assembly. So, I gladly call the mover to reply and we have the rich people in our society taxed---

**Hon. Speaker:** Order, Hon. Thuo!

**Hon. Stephen Thuo:** Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Manyala.

**Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala):** Thank you, Mr. Speaker, sir. I rise to support the Motion because it is going to bring equitable distribution of resources at the County level. Even though I am a Christian, I am skeptical about lotteries and betting but render to Caesar what is Caesar's and because it is Caesar's and it is an Act which is Unitarian and which is going to benefit the majority of the citizens within the County I think it is prudent. I am only praying that the Bill will also capture the children bit namely child labour, children are not allowed to participate in betting and lottery. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Mayala. I now call upon the Mover of the Motion to reply.

**Hon. Ronald Milare:** Thank you, Mr. Speaker. I just want to thank the Hon. Members for their positive contributions and, Mr. Speaker, the need to regulate betting, lotteries and gaming in a fair, transparent, accountable, proportionate and consistent way cannot be understated. The object of this Bill is



to give further effect to paragraph 4 of the 4<sup>th</sup> Schedule of the Constitution which mandates the County with the function of betting control and licensing and therefore this proposed Bill is long overdue. It will enable us to activate the very critical revenue streams which will enable us to--- because, Mr. Speaker, since the passing of the Finance Act we have been missing a lot of revenue because we do not have this legislation in place and therefore, once we do so we will be able to activate those critical revenue streams to enable us achieve our goals. Therefore, I just want to thank Members and I want to persuade them to pass the Bill so that we can move ahead to the next step. Thank you.

**Hon. Speaker:** Hon. Members, I now put the question that the Nairobi City County Betting, Lotteries and Gaming Bill, 2014 be read the second time. And as many of the opinion say 'aye' and as many of the contrary opinion say 'nay'. The 'ayes' have it.

*(Question put for the Second Reading of the betting, Lotteries and Gaming Bill 2014 and agreed to)*

**Interim Clerk:** An Act of the Nairobi City County to provide for control and licensing of betting and gaming premises, for the imposition and recovery of tax on betting and gaming, for the authorizing of public lotteries in the County and for connected purposes". Second Reading.

**Hon. Speaker:** Hon. Members, Order number 9;

### **THE NAIROBI CITY COUNTY ALCOHOLIC DRINKS CONTROL LICENSING BILL, 2014; SECOND READING**

**Interim Clerk:** The Nairobi City County Alcoholic Drinks Control Licensing Bill, 2014, Assembly Bill No.2 of 2014; An Act of Nairobi City County Assembly to provide for the implementation of the National Government Policy on alcoholic drinks and for the control, licensing, regulation and general administration of the manufacture, advertisement, sale and consumption of alcoholic drinks in the County and for connected purposes". Second Reading.

**Hon. Ronald Milare:** Thank you, Mr. Speaker. The Sectoral Committee on culture and community services is constituted pursuant to the provisions of Standing Order 191 of the Nairobi County Assembly and has executed its mandate in accordance with the provisions of the said Standing Order 191(5). The Alcoholic Drinks and Licensing Bill, 2014, underwent the first reading on Tuesday 28<sup>th</sup> January, 2014 and was effectively committed to the Committee on Culture and Community Services as provided for under Standing Order 121(1).

Pursuant to Article 196(b) of the Constitution and Standing Order 121(3) which requires public participation and involvement in the legislative and other business of the County Assembly and its Committees, a notification was placed in the mainstream print media on 3<sup>rd</sup> February, 2014 informing the public that the Committee was considering amendments to the Nairobi City County Alcoholic Drinks Control

and Licensing Bill, 2014 and inviting them to submit the representations they might have on the proposed amendments.

The Committee subsequently held a total of 10 meetings and a retreat to consider final amendments to the Bill. A number of meetings were held with the stakeholders from the County Executive during the scrutiny of the Bill. Specifically the Department of Trade, Industrialization, Cooperative Development, Tourism and Wildlife met twice with the Committee on the proposed amendments to the Bill.

The Committee also received written memoranda from the following:

1. National Authority for the campaign Against Alcohol and Drug Abuse (NACADA)
2. Pubs and Restaurants Association of Kenya (PERAK)
3. East African Breweries Ltd.

On the memorandum by the National Authority Against Alcohol and Drug Abuse (NACADA) the Committee noted that the organization raised several key issues which warranted further consideration. Several proposed amendments to the Bill by the organization were accepted. These included amendments touching on;

1. Reorganization and grouping of sections in parts for easy navigation;
2. Amendments to Clause 2, Clause 3, Clause 4, Clause 5, Clause 6, Clause 11 and Clause 43.

Some of the amendments dealt with typographical anomalies while others were substantive. The Committee, however, declined amendment proposals to channel 35% of the revenues collected under the Act to NACADA for research. It was also agreed that the amendment to Clause 6, Section 3, to bring in national officers responsible for coordination of National Government functions, be shelved as it would complicate matters in terms of accountability of the said officer to the Nairobi City County Assembly.

On the memorandum from Pubs and Restaurants Association of Kenya (PERAK), the Committee was in agreement that the memorandum raised serious concerns with specific reference to Clause 33 on liability for under age persons found in pubs and clubs in breach of the Act and the 3<sup>rd</sup> Schedule on opening and end of sale timelines provided for in the Alcoholic Drinks Control and Licensing Bill, 2014. It was agreed that Clause 33 be amended to provide for criminal liability for adults in whose company underage persons are found in clubs and pubs in breach of the law.

The Bill has proposed that pub owners be solely held liable for the same, a position vehemently opposed by PERAK. PERAK proposed amendments to the 3<sup>rd</sup> Schedule to provide for specific closure time were also considered and amendments proposed to take care of the same. It was noted that National legislation only provides for closure on selling, not on the premises. This has however been abused by enforcement officers to extort money from PERAK members. On the memorandum from the East Africa

Breweries Ltd, the company raised concerns regarding the inconsistencies between the Bill and National legislation specifically with reference to licensing, packaging, licensing hours, conditions and exceptions.

The Committee was in agreement with the company's proposal for an amendment to Clause 42 of the Bill on packaging of alcoholic drinks in glass containers of not less than 200 milliliters. This is in conformity with the National legislation on the same under Section 9(a) of the Customs and Excise Act, Chapter 472 of the Laws of Kenya.

During its meeting on the Bill with the County Executive Committee Members for Trade, Industrialization, Cooperative Development, Tourism and Wildlife, Ms. Anna Othoro, the Committee was informed that the primary purposes of the Alcoholic Drinks Control and Licensing Bill, 2014 is to regulate the manufacture, distribution and sale of alcoholic drinks in Nairobi City County. It will provide for licensing of operators and individuals in Nairobi City County that manufacture, distribute or sell alcoholic drinks within the County as provided for under the 4<sup>th</sup> Schedule of the Constitution.

The Bill seeks through effective regulation and public engagement to permit, manufacture and sale of alcoholic drinks and ensure that one; it is crime free, two; the activity is undertaken fairly and openly, and three; that children and vulnerable people are protected.

Mr. Speaker, the origin and necessity of the Bill is not without context. The Constitution pursuant to the 4<sup>th</sup> Schedule mandates and empowers the County Governments with the responsibility of liquor licensing. The National legislation namely Alcoholic Drinks Control Act gives this function to the National Authority for Campaign Against Drug Abuse, (NACADA). The purpose of the Bill is thus to ensure that the function of liquor licensing is immediately and effectively implemented at the County level and the mechanisms are provided for in this legislation.

The National Government is empowered to make legislation that has the following qualities that will apply and override County legislation if the following conditions exist:

- A. If the National legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual Counties;
- B. If the National legislation provides for a matter that can be dealt with effectively but requires uniformity across the nation and the National legislation provides for that uniformity by establishing;
  1. Norms and standards or;
  2. National policies or;
- C. If National legislation is necessary for;

1. Maintenance of National security;
2. Maintenance of economic unity;
3. Protection of common markets in respect to mobility of goods, services, capital and Labour;
4. The promotion of economic activities across County boundaries;
5. The promotion of equal opportunity or equal access to Government services or;
6. The protection of the environment.

The conditions set out above have been reviewed and they would apply to the following extent;

- a) Control of drinking hours;
- b) Security considerations;
- c) Levels of alcohol content.

As such the County Government is at liberty to establish its own institutions that will manage the licensing of the liquor trade. These institutions will be able to implement the National Government policy on control of alcoholic drinks. The Bill also provides for collaboration between the two Governments especially on the issue of enforcement. This Bill also provides for the Alcoholic Drinks, Licensing and Control Board to be chaired by a person appointed by the Governor. The other Members will be drawn from various departments of the National and County Governments. The Sub-County Alcoholic Drinks Control and Licensing Committees shall be responsible for licensing at the Sub-County level. The enactment of this Bill shall entail expenditure of the County public funds to be provided for in the estimates.

The Alcoholic Drinks Control and Licensing Bill, 2014 will thus enable the Nairobi City County Government generate crucial revenues to supplement its other sources. The Committee notes that it is important to ensure amendments are in tune with the spirit of the Bill which is designed to regulate and ensure fairness in manufacture, distribution and sale of alcoholic drinks within the County.

Mr. Speaker, the Committee is thankful to your office and the office of the Clerk of the Nairobi City County for its logistical and technical support accorded to it during its sittings and consideration of the Bills. Therefore, Mr. Speaker sir, on behalf of the Committee and pursuant to Standing Order 131, it is my pleasant duty to table before the Assembly the report of the sectoral Committee on Culture and Community Services on its scrutiny of the Nairobi City County Alcoholic Drinks Control and Licensing Bill, 2014. I wish to call on the Chairman of Trade to come and second.

**Hon. Peter Warutere:** It is my humble duty to offer fair trading practices and to ensure that essentially we have level ground for trading purposes and for this, I second that Bill.

*(The Deputy Speaker takes over the Chair as the Speaker walks out)*

**Hon. Deputy Speaker:** Hon. Members, allow me to propose the question, that the Nairobi City County Alcoholic Drinks Control and Licensing Bill, 2014, (Assembly Bill No. 2 of 2014) be now read for the second time. Members.

**Hon. Immaculate Musya:** Point of Order, Mr. Speaker!

**Hon. Deputy Speaker:** On what?

**Hon. Immaculate Musya:** Lack of quorum.

**Hon. Deputy Speaker:** Can the Clerk confirm?

*(Interim Clerk counts the Members)*

**Hon. Deputy Speaker:** Hon. Whips? We do not have any in the House, both the Minority and Majority Whips? Hon. Serjeant-At-Arms, can you call the Hon. Member walking over there? Meanwhile, Serjeant-At-Arms, can you ring the Bell for ten minutes.

*(Quorum Bell is rang for 10 minutes)*

**Hon. Deputy Speaker:** Hon. Members, excuse me. Hon. Clarence, please come back. Majority Leader.

**Hon. Leader of Majority:** Thank you, Mr. Speaker. I support the Motion but also you can just read the mood of this House. I think we are agreed that we pass the Motion and I request that you can call the mover to reply.

**Hon. Deputy Speaker:** Is that the correct position with the Members? Hon. Chair for sectoral Committee on Culture.

**Hon. Ronald Milare:** Thank you, Mr. Speaker and looking at the mood of the House I do not think I need to bore the Members further, so, I thank you, Members.

**Hon. Deputy Speaker:** Hon. Members, allow me to put the question that the Nairobi City County Alcoholic Drinks Control and Licensing Bill, 2014, (Assembly Bill No. 2 of 2014) may now be read for the second time. May as many of the same opinion say 'aye', may as many of the contrary opinion say 'nay'. The 'ayes' have it.

*(Question put for the Second Reading of the Alcoholic Drinks Control and Licensing Bill, 2014 and agreed to)*

**Interim Clerk:** An Act of the Nairobi City County Assembly to provide for the implementation of the National Government policy on alcoholic drinks and for the control, licensing, regulation and general administration of the manufacture, advertisement, sale and consumption of alcoholic drinks in the County and for connected purposes. Second Reading.

**Hon. Deputy Speaker:** Hon. Members, I am made to understand that there is a schedule for House Business Committee to meet at the rise of the House and the House stands adjourned to 2.30 p.m. tomorrow.

*(The House Rose at 4.00 p.m)*