



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Third Session

Thursday 19<sup>th</sup> March, 2015

The House met at 2.30 p.m.

*(Hon. Speaker Mr. Alex Ole Magelo on the Chair)*

### PRAYERS

**Hon. Speaker:** Sergeant at Arms please ring bell for 10 minutes

*(Quorum bell is rung for 10 minutes)*

**Hon. Speaker:** We are 33 now, Sergeant-At-Arms ring the bell for five minutes.

*(Quorum bell is rung for 5 minutes)*

### STATEMENTS

**Hon. Speaker:** Chairman Labour.

**Hon. Member for Utalii Ward** (Mr. Wilson Ochola): Thank you, Mr. Speaker sir. I beg to respond as follows; on Tuesday 3<sup>rd</sup> March 2015, the Hon. Moses Ogeto, MCA, rose on the floor of the Assembly pursuant to Standing Order 41 (2) (c) and requested the Chairperson of Labour and Social Welfare Committee for a Statement response regarding the advertisement of job vacancies in the County.

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According to the Hon. Member, the County Public Service Board advertised the job vacancies in different sectors including the Security and Compliance sectors; the Member further asked the Chairperson to inquire into and report on;

1. Whether it is appropriate for the County Public Service Board to publicly advertise the security jobs.
2. Plans to consider officers who are currently serving in the sector of Security and Compliance

The Committee wrote to the Nairobi City County Public Service Board Secretary on 3<sup>rd</sup> March 2015 in a letter Ref: LSW/STM/01/2015, requesting to be furnished with a written response to the statement by Hon. Moses Ogeto.

In this regard I wish to report to the Assembly as follows;-

That:

1. Whether it is appropriate for the County Public Service Board to publicly advertise for Security Jobs;

The Nairobi City County Public Service Board Secretary responded via letter Ref. NCPSB/CA/MG/24 dated 11<sup>th</sup> March 2015 on the matter stating that the advertisement of various positions are done by the Board at the request of the relevant departments and that departments base their requests on; the assessed needs for the required personnel, the organizational structure and budgetary provisions for the same.

According to the County Public Service Board, County Government Act section 66 provides that all positions of a public office shall be filled by the County Public Service Board by inviting applications through advertisements and other modes of Communication so as to reach a wider population of potential applicants and especially persons who for any reason may have been or may be disadvantaged.

2. Plans to consider officers who are currently serving in the sector of Security and Compliance.

The advertisement for jobs in question was open to all hence the officers currently serving are free to apply as well. For the officers currently serving, the County Public Service Board will consider them alongside other applicants subject to the job requirements and performance during the interview being met.

It was generally agreed by the Nairobi City County Public Service Board that serving officers who meet the job requirements and who will do well during the interviews will be given priority during the recruitments. This is based on the provisions of section 232(g) of the Constitution which stipulates the need for fair competition and merit for appointments and promotion.

3. Committee meeting with the County Public Service Board together with the Public Service Management

The Sectorial Committee on Labor and Social Welfare at its meeting held on Wednesday, 4<sup>th</sup> March 2015, resolved to invite the Chairman and Members of the Public Service Board together with the County Executive Member and Chief Officer in charge of Public Service Management for a meeting of the Committee held on Wednesday, 11<sup>th</sup> March 2015 at 11:30 am at the Foyer.

Amongst others, the objective of the said meeting was to address matters related to;

- (i) The ongoing County Public Service Board recruitment exercise; and,
- (ii) Plans the Board have to address the ballooning wage Bill in the County.

Besides the above written response, the County Public Service Board during the said meeting informed the Committee that; on the recent advert to employ security and compliance officers, the Board noted that although security was a mandate of the National Government, overriding public interest compelled the County Government to intervene in areas critical to the smooth running of the County.

The Board stated that as a long term objective, the County Government intends to transform the inspectorate Department into a Metropolitan police, hence the need to employ qualified and experienced officers and that it will consider employing more youth in future as proposed by Members, keeping in mind that it had no control on who applies for jobs that are advertised. I beg to lay this paper.

**Hon. Speaker:** Thank you Hon. Chairperson.

**Hon. Member for Kilimani Ward (Mr. Moses Ogeto):** Thank you Mr. Speaker Sir, I do believe the Committee did their part but I am not satisfied with their response. If the same Committee wants to defend the employees of the County whom they represent in this County, we want to understand how somebody who has been in the force for thirty years the way I said last time, thirty years of experience can manage not to understand the security in this Republic of Kenya Mr. Speaker Sir.

That is why even the National Government, age is of concern as even the National Parliament complained about Mr. Boinet but again they chose from the system of Kenya Police. We could not understand as much as they are telling us that it is the department which requested for the same. It is the same Labour Committee which defends the employees of the very various 47 County of this Republic of Kenya Mr. Speaker Sir.

I do understand that even in the United States of America, the people who usually head the security had been in force for more than thirty years. But how comes Mr. Speaker sir, where we should manage the security of the County, yesterday you sat here in a Kamukunji talking about the security of Members, now we are talking about the security of the whole County Mr. Speaker sir.

I am not satisfied and I would wish that the Labour Committee to go into detail and understand the complexity in the security detail of the County. I am not satisfied and I wish that the Chairman of the same Committee brings an elaborate report ensuring that the same people who have been in the force of Inspectorate have been taken care of since they have been in this department for the last thirty years. When you want to train even a toddler on how to swim, you must bring him for training. You cannot go and bring people from outside to manage a kitchen where you have brought a cook. It is not practical.

I wish that since the Labour Committee defends the employees of this County in this Assembly to extend and defend the forces of security in this County. I am not satisfied and I beg to request to be given a considerable answer. Thank you.

**Hon. Speaker:** Order Hon. Chairperson Labour. I think what Hon. Ogeto is saying is that your reply is actually half baked because when he says that the County intends to transform the Inspectorate Department into Metropolitan police and going into the advert that we saw on the papers, that means that the top officers who have been in the County Government, formerly City Council, will lose their jobs. Here you have told us what guarantee the officers after these new employees come in. Order! Secondly, I think what you should bring to this Assembly is actually the whole list of those who were to be employed and their ranks because some of the vacancies I saw are not in the County Government Act and so you should not as the Member is saying bring half information. Please bring the whole information, let the Members vent on that. I know the exercise is going on

**Hon. Member for Utalii Ward (Mr. Wilson Ochola):** Mr. Speaker I think the Hon. Member is trying to mislead this House. When we sat down with the Public Service Board he was there and now he is saying he was not satisfied yet that time he was and also said thank you. It is not right--- Mr. Speaker just give me some time. We are not here to mislead Members but to give directions. We are not saying that we are going to chase these security Members but you know very well that the security that we have in the City County of Nairobi are not well trained and educated. We want to get a way forward with this County and bring change therefore there is no more information that we are bringing on this. Thank you.

**Hon. Speaker:** Order! Hon. Chairperson Labour. The Member for Kilimani Ward is not satisfied and that is period. This is no longer an issue for you and Hon. Ogeto but for the Assembly. Hon. Chairperson.

**Hon. Member for Embakasi Ward (Hon. Michael Ogada):** Thank you very much Mr. Speaker sir. I just want to add my voice on the same. The Chairman has given us a report according to how he was given, but I think one of the roles of this House is to ensure that things are done properly. Not only to bring what we have been told but this House must have a right to reject what is not right and accept what is right. It is not a must that when we are given a report by an Executive Officer or a Board we just accept it.

If Members are saying that people are being employed and sacked anyhow, I think Members have a right to be heard. I think it is proper that the Chairman because we are working together and we want to protect everybody; everybody has a family, *sio wale wanakuja ndio wako na watoto*. So if they are saying trainings--- and want to turn the County into a metropolitan *sijui* what, you first of all turn it and then you tell us which positions goes with it then you can advertise for these jobs. You cannot bring everybody, your relatives and pretend that you are trying to create positions. Those things are not right.

**Hon. Speaker:** Very well Hon. Chairperson. Order Hon. Ogeto! Hon. Chairperson Labour today is a Thursday; you have until Wednesday 2:30 pm to bring us the whole list of those who are being employed on the floor of this Assembly. Not what you think or what you have been told. We want it. You cannot come and give a carrot that you are going to start a metropolitan police. On Wednesday 2:30 pm it should be on the floor of this House and let the Members know who is being employed, where and what happens to the positions that already exist. According to the Hon. Chairperson Budget, he is right by saying the officers who are about to lose their jobs also have families and therefore I order you to bring the list here on Wednesday. I want to warn you--- you cannot take this Assembly for a ride. We know the recruitment is going on and if the report is not there then the Assembly will deal with that matter accordingly, it is so ordered. Hon. Abuka.

**Hon William Abuka** (Nominated Member): Thank you very much Mr. Speaker for giving me this opportunity. I have stood on a Point of Information to bring to your attention and in extension the whole House that Nairobi City County has no farming activity that it conducts that can be used to empower our own people economically and expose them to an enhanced money circulation.

Two, we do not have world class tourist attraction centers that can really help us to compete with other people that can bring money into this County. The only two things that can prominently help us have impact on our people and make them appreciate our input as Members of the County Assembly is creating jobs and opportunities for doing business. It is something that is so important that when jobs are being created, every Member here has a right to know and circulate that information because that is the only route through which we can impact and help empower our people.

I would want to request the Chairman through your office that the report that is coming must detail that Members have exceptional interests in matters of job creation. Thank you Mr. Speaker.

**Hon. Speaker:** Very well Hon. William Abuka HSC.

*(Applause)*

**Hon. Moses Ogeto:** Mr. Speaker sir in the same report you remember Nairobi's were taken for a ride. They went for a training school and that is why I am saying that if they want to employ let them recruit from within.

**Hon. Speaker:** Order Hon. Ogeto! Who was taken for a training?

**Hon. Moses Ogeto:** Mr. Speaker sir, Traffic Marshals--- I am on a Point of Information

**Hon. Speaker:** Point of Information then you come

**Hon. Moses Ogeto:** I am not misleading the House. I am saying the Committee of Labour should bring a detailed report, even there are some Nairobi's who went to the training school which is in Dagoreti. They could have told us that they want to recruit from within?

**Hon. Elizabeth Manyala:** Point of Information Mr. Speaker

**Hon. Alexina Moddy (Nominated Member):** Point of Order Mr. Speaker

**Hon. William Ochola:** Point of Order Mr. Speaker

**Hon. Speaker:** He is on a Point of Information Hon. Members!

*(Loud consultations)*

**Hon. Speaker:** You will come on your time and inform us but let him inform the House,.Order!

*(Loud consultations)*

**Hon. Speaker:** Chairman of Labour, you cannot stand here and start screaming!

**Hon. Moses Ogeto:** Mr. Speaker sir the Committee of Labour being led by its Chairperson should protect the employees of the defunct City Council which is part of the Nairobi County as a Government. By extension of a Committee it should be able to protect Nairobi's and the people whom they found in the system. I wish the Committee of Labour brings the same information in detail. Thank you.

**Hon. Speaker:** Hon. Manyala

**Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala):** Mr. Speaker sir. It is very sad if we turn this House into a House of rumor mongering instead of a fact-finding House because if you read article 191 which clearly stipulates that a Committee is supposed to investigate and report into. And this pertinent issue which Hon. Ogeto keeps on referring to of City marshals, was a pro-activeness by the Executive to partner – if you read the County Government Act – that they can sign an MOU with a like-minded organization which is willing to work with the County. And when they did so with the World Bank and because of other problems which we don't know, World Bank pulled out after the exercise had been

jump-started and the personnel had gone through a rigorous exercise. When they withdrew, their hands were tied because this was pro-activeness by the Executive who was in-charge of that docket at that time.

So what is actually happening right now is some of the Members are doing deployment within the County. Deployment that Members who are within the County, were staff here are--- they are doing something called restructuring. So, in that restructuring, you can be deployed and taken for further training. And I think, if we are pounding the kings in a small matter, it won't help us because we have to see that we roll the structures as is envisaged in the County Government Act.

The employment which we see actually taking place is in tandem with the County Government Act according to the organogram of the County Government. So, when we start putting roadblocks, then we are behaving like the maker of all things putting the big yam or a hot potato in the baby's mouth. Is this the way we want to work? Is it because we want our cronies to be employed or what? It leaves a lot to be desired. Let the Executive do their work.

**Hon. Speaker:** There is a Point of Order from Hon. Karen.

**Hon. Karen Wanjiku** (Nominated Member): Mr. Speaker, I need directions from you. Is the Member in order to stand here and mislead us and talk on behalf of the Executive? Is she an MCA or the Executive Mr. Speaker sir?

**Hon. Speaker:** Hon. K'Otieno

**Hon. Member for Sarangombe Ward** (Mr. Pius Otieno): Thank you Mr. Speaker. You know, sometimes I wonder the level of intellectual dishonesty that is taking place in the House. We must always appreciate if a Member has the right information and it is being backed by a statute of law or any piece of legislation. That Member should be accorded time and if any Member thinks otherwise, he or she should hold his or her horses because it is not a matter of Standing Order. I am taking you through what we call a political theory. I should not be exchanging words with you. It says this; in as much as you may not like what I am saying, you should defend my right even unto death to say what I am saying. Then you will be given time to say that.

Coming to the subject of discussion, I want to say, I don't want to please anybody because my age does not allow me to please anybody. The Executive has got every right to recruit a new employee and while recruiting a new employee, they do it through advertisement. T



he advertisement can be internal where they put memos on corridors in those offices or they can as well adopt what we call external means of advertisement. Now, this one we are talking about is human resource management. So, when Executive are recruiting people, what Hon. Ogeto should be asking is this: Are these employees certified that they are redundant and if they are redundant, what measure or yardstick did the Executive do or what audit measure was taken to confirm that these people are redundant? And if they are redundant, where shall they be redeployed? What qualifications do these new people who are coming have to improve service delivery or to improve our security?

Sometimes we should not oppose what people are saying simply because we don't like them or simply because they are authority in that subject we are discussing. In as much as you may not like me, but the information that I could be giving is factual and authoritative. So, you should only deal with the information, not the individual. Thank you Mr. Speaker

**Hon. Speaker:** Hon. Members. Very well Hon. K'Otieno. But whether it is intellectual or whatever you want to tell us, the Assembly has the right to know what happened to the men and women who went to Dagoretti to train. If you had that information--- Order Ho. K'Otieno! If you had the information, you would have given it to Members. Then they would not have asked the question. But Members have a right. They have every single right to ask a question. Some of the Members were even told to bring their people. And you know very well the word that goes around. Nairobi is a very small place. For your information, Whether it is intellectual or non-intellectual, Nairobi is a small place. And what the Member was asking is very brief. What happened to those men and women who went there and were shortlisted? What happened? Hon. Chairperson, Budget.

**Hon. Michael Ogada:** Thank you Mr. Speaker sir. I am on a Point of Order. What I would like to advise ourselves is that the County is actually in crisis and the crisis we are in is financial. I remember one day His Excellency the Governor of this County took the Executive to a Senate Committee that is chaired by Murkomen and what they were requesting is that they are unable to pay salaries for the staff---

*(Loud consultations)*

**Hon. Speaker:** Order! Order!

**Hon. Michael Ogada:** Mr. Speaker sir, I think as K'Otieno has just said it, every Member has a right to speak. He has a right to read his papers.

**Hon. Speaker:** Why are you asking that question?



**Hon. Michael Ogada:** What I am saying is that when the Governor spoke last time, he was talking of how to be helped to reduce staff who are here and the concern of the Members is that in this County, we never had a metropolitan police before. Therefore you cannot tell me that there is a single officer in City Hall who is competent in that force. The only thing that can be done is for retraining. They would have talked about training the people who are there. Because we are unable to pay salaries, as the Chairman of Budget Committee, this is something that we are going to discuss.

The law that we have, the PFM, we cannot pay more than 30% in wages. Currently, it stands at 43%. The estimate that is coming is 52%. It is illegal. It is not allowed by law. It is illegal and you keep on employing people. Why are you employing and you can't promote. Why were you talking about reducing people and now you are employing. Some of these things don't add up. So, Mr. Speaker sir, I think this is something that Members of this Assembly must look at very critically because soon we are going to do the business of paying for salaries alone and nothing else. So, this is something that Members of this House--- Don't shy away from this. It is a reality. It has to be tackled.

**Hon. Speaker:** Thank you very much Hon. Member. That is the voice of an intellectual person. Hon. Ngaruiya.

**Hon. Member for Kahawa West Ward (Mr. Ngaruiya Chege):** Thank you Mr. Speaker, I stand here to support the Chairman for Budget. I don't know whether the Chairman for Labour has been compromised. It is wrong and unconstitutional. Every time the Executive come to the Budget Committee, they keep complaining about the bloated wage Bill. We keep asking ourselves, they are employing every day and here they are saying there cannot be development in this County because they are paying a huge wage Bill every financial year. The Chairman of Labour is supposed to scrutinize all the employments that are undertaken by the County Public Service Board but he is doing very little to oversee that body.

I think it is a high time that the Chairman of Labour is reprimanded and investigated because it seems that there is something wrong. I also believe he has employed the people in that particular Service Board. Mr. Speaker, we need to be serious, and if we are not serious as the Chairman has said, this County is headed to the knees. All Members of Committee on Labour should face the same wrath PAC is facing in Parliament. It should be dissolved because it is not doing right things to the employees of this County.

*(Loud Consultations)*

**Hon. Speaker:** Order!

**Hon. Ngaruiya Chege:** Protect me, Mr. Speaker.

**Hon. Speaker:** Order Hon. Chairperson Labour!

**Hon. Ngaruiya Chege:** Every Member of the Committee led by the Chairman, it is the high time they are investigated so that we know the truth on the number of employees that have been employed and how many promoted instead of talking about huge wage Bill. Thank you, Mr. Speaker.

**Hon. Speaker:** Hon. Chairperson Labour.

**Hon. Wilson Ochola:** Mr. Speaker, I think we are going on good direction but--- This is sabotage-- - Let Hon. Ngaruiya not mislead this House. Let me tell you, Mr. Speaker, what Hon. Ngaruiya is trying to show the House is how we are going to mislead Hon. Members and the public. Today, Members of Labour Committee have really worked very hard and we are very competent, led by Dr. Hon. Ochola, the Chairman of Labour. You know I am a very able Chair, let the Member not mislead the House.

*(Loud Consultations)*

**Hon. Speaker:** Next Order! But you have until Wednesday 2:30 p.m. Order! Hon. Chairperson, on Wednesday 2:30 p.m. you table the list of all those employed on floor of this Assembly. Chairman Legal.

**Hon. Moses Ogeto:** Thank you, Mr. Speaker sir. I want to lay---

**Hon. Speaker:** Order Hon. Ogeto! Hon. Chairperson Labour, we are talking about the positions which were advertised recently, the ones Hon. Ogeto asked. Thank you very much, Wednesday 2:30 p.m.

**Hon. Moses Ogeto:** Thank you, Mr. Speaker sir.

**Hon. Wilson Ochola:** *(inaudible)*

**Hon. Speaker:** Order! Stop being cheeky!

**Hon. Moses Ogeto:** Thank you, Mr. Speaker sir. First and foremost I want to say my colleagues, starting from Hon. Ngaruiya and the Chairperson for Budget, have noted the sense of what I am trying to speak...

**Hon. Moses Ogeto:** ...I want to respond to a statement requested by Hon. Nelson Masiga, MCA from Eastleigh.

Mr. Speaker sir, on Wednesday 18<sup>th</sup> January, 2015 Hon. Masiga MCA rose on the floor of the Assembly pursuant to Standing Order number 41 (2c) and requested the Chairperson of the Sectoral Committee of Justice and Legal Affairs for a statement regarding impounding of motorcycles by the County *askaris* that the County Assembly had passed a legislation to enforce the same. He further asked the Chairperson to inquire into and report on:

1. Why the impounded motorcycles have not been released even after the owner being fined

2. Which legislations are the County *askaris* using to impound the motorcycles and when were they enacted
3. The number of motorcycles impounded since 12<sup>th</sup> February, 2015 and when the County Government will release the impounded motorcycles.

Mr. Speaker sir, the Committee wrote to the Director of Inspectorate and the Chief Officer of Security, Compliance and Disaster Management on 23<sup>rd</sup> February, 2015 requesting to be furnished with a written response to the statement from Hon. Masiga. In this regard, I wish to report to the Assembly as follows.

- a. Why the impounded motorcycles have not been released even after the owner being fined. That in order to release the impounded items, persons concerned to provide tangible evidence of the ownership of the items so as to avoid any legal implications in this case on releasing the items. I wish to tell this House that when the items have been impounded, people should come with the documents which show that the item belongs to them to avoid litigation especially with the County.
- b. Which legislation the County *askaris* are using to impound the motorcycles and when it was enacted. The impounding of motorcycles is provided for in the general nuisance by-law 2007. For the control and movement of other activities are punishable under the law of 31 section 1 of 2007.
- c. The number of motorcycles impounded since Thursday 12<sup>th</sup> February 2015. According to the records held by the department, there were only 58 that are lying in our yard and general stores from 12<sup>th</sup> to 24<sup>th</sup> February 2015. The 56 have been released to the owners after the payment of the fines, production of evidence of ownership and 2 motorcycles were yet to be released as the owners had not yet come to claim them with evidence of the proof of ownership.
- d. When the County Government will release the impounded motorcycles. The County Government releases motorcycles when their owners come with their claim of motorcycles impounded...

**Hon. Moses Ogeto:** ...upon satisfying that line in number 3 above, I beg to lay the response, thank you Mr. Speaker sir.

**Hon. Speaker:** Hon. Masiga.

**Hon. Member for Eastleigh South Ward** (Mr. Nelson Masiga): Thank you Mr. Speaker sir. I wish to commend the Committee for what they did. I have an observation to make. They are using a By-Law of 2007 which is restriction of nuisance movement.

I went through that By-Law and I found it was a By-Law that was made to prevent the handcarts from moving in town, not the motorcycles. I found it uneasy for me to accept that they are using a By-Law that is not in existence to harass the motorcycle operators. I think the Committee should come up with a law that is going to govern these motorcycles. They should not be using a By-Law that has no teeth, tail or legs to harass our young people who are operating motorcycles. Thank you Mr. Speaker sir.

**Hon. Speaker:** Thank you, next Order. Hon. Abuka.

**Hon. William Abuka:** Standing Order number 32, I would like to bring to your attention that the House lacks quorum.

**Hon Speaker:** Clerk can you ascertain that? The Sergeant-At-Arms to ring the bell for 8 minutes.

*(Quorum bell is rung)*

**Hon. Speaker:** Hon. Members Standing Order number 32 (2 a) if on the account under paragraph 1 a quorum does not appear to be present the Speaker or the Chairperson shall cause the division bell to be rung as on a division and if no quorum is present at the expiration of the 8 minutes, if the Speaker is in the Chair, the Speaker shall adjourn the County Assembly until the next sitting without question put. Hon. Members the House is adjourned until Tuesday 2.30 p.m. I thank you.

***The House rose at 4.15 p.m.***