



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fifth Session

Wednesday 1st March, 2017

The House met at 2.30 p.m.

(Hon. Deputy Speaker (Mr. Kennedy Ng'ondi) on the Chair)

PRAYERS

Hon. Deputy Speaker: Hon. Members, under Standing Order No. 31 (2), it has been indicated to the Chair that there is lack of quorum in the House. Therefore, I direct the Serjeant-at-Arms to ring the bell for 10 minutes.

(Quorum bell rang for 10 minutes)

Hon. Deputy Speaker: Hon. Members, we may proceed as there is quorum in the House.

PAPERS

REPORT OF THE CONTROLLER OF BUDGET ON COUNTY GOVERNMENT BUDGET IMPLEMENTATION REVIEW FOR THE FIRST 9 MONTHS FY 2015/2016

Hon. Deputy Speaker: Hon. Asha Sosso.

Hon. Asha Sosso: (Nominated Member): Thank you, Mr Speaker sir. Pursuant to Standing Order No. 180 (6), I beg to lay the following Paper on the table of the Assembly today, Wednesday 1st March, 2017: The Report of the Select Committee on Public Accounts on the Report of the Controller of Budget on County Government Budget Implementation Review for the first 9 months FY 2015/2016. I beg to lay.

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(Paper laid on the Table)

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD CAR LOAN SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2015

Mr. Speaker sir, Pursuant to Standing Order No. 180 (6), I beg to lay the following Paper on the table of the Assembly today, Wednesday 1st March, 2017: The Report of the Select Committee on Public Accounts on the Report of the Auditor General on the Financial Statement of Nairobi City County Assembly Service Board Car Loan Scheme Fund for the year ended 30th June, 2015.

(Paper laid on the Table)

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF THE NAIROBI CITY COUNTY ASSEMBLY BOARD MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE, 2015.

Thank you, Mr. Speaker sir. Pursuant to Standing Order number 180 (6), I beg to lay the following Paper on the table of the Assembly today, Wednesday 1st March, 2017: The Report of the Select Committee on Public Accounts on the Report of the Auditor General on the Financial Statement of the Nairobi City County Assembly Board Mortgage Scheme Fund for the year ended 30th June, 2015. Thank you Mr. Speaker sir.

(Paper laid on the Table)

Hon. Deputy Speaker: Thank you, Hon. Member.

NOTICES OF MOTION

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD CAR LOAN SCHEME FUND FOR THE YEAR ENDED 30TH JUNE 2015

Hon. Asha Sosso: Thank you again, Mr. Speaker. I beg to give Notice of the following Motion; THAT this Assembly adopts the Report of the Select Committee on Public Accounts on the report of the Auditor General on the Financial Statement of the Nairobi City County Assembly Service Board Car Loan Scheme Fund for the year ended 30th June 2015 laid on the Table of the Assembly today, Wednesday 1st March, 2017.

REPORT OF THE CONTROLLER OF BUDGET ON COUNTY GOVERNMENT BUDGET IMPLEMENTATION REVIEW FOR THE FIRST 9 MONTHS FY 2015/2016

Hon. Speaker, I beg to give Notice of the following Motion; THAT this Assembly adopts the report of the Select Committee on the Report of the Controller of Budget on the County Government Budget

Implementation Review for the first 9 months FYI 2015/2016 laid on the Table of the Assembly today, Wednesday 1st March, 2017.

THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENT OF THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE 2015

Hon. Speaker, I beg to give Notice of the following Motion; THAT this Assembly adopts the report of the Select Committee on Public Accounts on the Report of the Auditor General on the Financial Statement of the Nairobi City County Assembly Service Board Mortgage Scheme Fund for the year ended 30th June 2015 laid on the Table of the Assembly today, Wednesday 1st March 2017. Thank you, Mr. Speaker sir.

STATEMENTS

Hon. Deputy Speaker: Hon. Members, on Statements, we expect the Chair of the Health Committee to give responses for the requests by Hon. Amos Mbutia, Hon. David Kairu, Hon. Pius Mbono, Hon. Karen Muga and Hon. Hashim Kamau. I hope the aforementioned Members are in the Assembly. The Chairperson for Health may proceed.

Hon. Member for Nairobi South (Mr. Manoah Mboku): Thank you. Mr. Speaker, as you directed last week, these copies have been shared with the Members who requested and I am sure they are satisfied. I have just spoken to them a few minutes ago, so unless they have anything to say---

Hon. Deputy Speaker: Thank you, Hon. Manoah. Hon. Members, as you are aware, we made a resolution that on the responses of the Statements, the Members who had actually placed a request are satisfied and they got the reports in good time. They have scrutinized and they are at least in agreement with the same. We can then save time by them confirming the same. Hon. Member Amos Mbutia, are you in the House? Maybe we bypass that a bit. Do we have Hon. David Kairu in the House?

Hon. Member for Woodley/Kenyatta Golf Course (Mr. David Kairu): Thank you, Mr. Speaker sir. I have seen the response and I am not satisfied that the response has taken 2 years and I just have only a few months to go in this House. So, Mr. Speaker sir, there is no need of doing another Statement. Thank you.

Hon. Deputy Speaker: Thank you. Pius Mwaura.

Hon. Member for Zimmerman (Mr. Pius Mwaura): Thank you, Mr. Speaker. I am also not comfortable with this response because---

Hon. Deputy Speaker: I believe Chairman, you are taking notes.

Pius Mwaura: Mr. Speaker, I was not invited to give my input in the Committee as alleged by this response. Number two, Mr. Speaker, two years down the line, the department is still processing a County Health Policy on how to procure safety equipment for the Community Health Workers.

Mr. Speaker, number three, having a basic training as alleged in this response, without proper equipment like the protective gear, this is like sending police officers into the battlefield without any protective gear, they will be killed anyway. So, they should tell us when the equipment are ready so that they can be used by the Community Health Workers.

Hon. Deputy Speaker: Thank you. Hon. Manoah, kindly engage the Member on the concern raised.

Hon. Manoah Mboku: Thank you, Mr. Speaker. Maybe the Members do not have it, but in the response we did inform the Member that the County is in the process of developing a County Health Policy that is expected to have pronouncement on the CHWs comprehensively. So, Mr. Speaker, that one is in the Bill that we are working on and probably after the Bill, the Member will be able to see all these we are talking about. So, we are currently working on the Bill about Health Policy.

Hon. Deputy Speaker: Thank you. Hon. Mwaura.

Hon. Pius Mwaura: My worry, Mr. Speaker, is as I have said, two years and the policy is not complete. I do not know how long the department can be given to complete this policy.

Hon. Deputy Speaker: Thank you, Hon. Mwaura. Kindly, if I may request you as a Hon. Member of this House, can you try and visit the Committee as a friend of the Committee and then get to share with them how you wanted this to be please?

Hon. Pius Mwaura: I will do it next week, Mr. Speaker.

Hon. Deputy Speaker: Thank you very much. Hon. Amos Mbuthia.

Hon. Manoah Mboku: Mr. Speaker, Amos Mbuthia's response was done last week and he is satisfied.

Hon. Deputy Speaker: So it was dispensed off?

Hon. Manoah Mboku: Yes.

Hon. Deputy Speaker: Thank you. Hon. Muga!

Hon. Carolyne Muga (Nominated Member): Thank you, Mr. Speaker. Given the circumstances on the water issue, as much as the problem has not been addressed in having adequate of water in view of

water shortage, they have put some water tanks and they are getting supply of water. So, as the situation is now, I can actual say that it's been worked on.

About the drugs, they have some but I am concerned in view of the Doctor's strike. It is the health centers that actual people are flocking. So, I am urging the Health Department to move with speed and resolve the issues why they are not getting drugs for the health centers. Right now, that is where majority of residents in and around that place and from outside are looking up to for medical care. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you very much.

Hon. Karen Wanjiku (Nominated Member): Thank you, Mr. Speaker. I want to say something about the drugs. Last December, if you can confirm with your health centers, every health center received some drugs and in the month that has just ended, February, our health facilities have received drugs. We have pushed as a Committee and the debts that were there in KEMSA have been paid some of the amount and we have received some drugs. Please, confirm with your Health facilities if they have the drugs, thank you.

Hon. Deputy Speaker: Thank you, Hon. Karen. Actually, we can't doubt your ability and what you are saying. So, that is very much in order. We have Hon. Hashim Kamau, it seems he is not in the House but at least you can give the preview on what you have, Hon. Manoah. Had you served him with the response?

Hon. Manoah Mboku: Yes, he was served. His Statement was almost parallel with that of Hon. Caroline Muga, so if Hon. Muga is satisfied, am sure---

Hon. Deputy Speaker: They were touching on the same area?

Hon. Manoah Mboku: Yes, Mr. Speaker.

Hon. Deputy Speaker: Okay, thank you.

PROCEDURAL MOTION

APPROVAL OF THE CALENDAR FOR THE FIFTH SESSION OF THE ASSEMBLY

Hon. Deputy Speaker: Who is stepping in for the Speaker and the Deputy Speaker because the Chairperson is the Speaker and the Deputy Speaker for Assembly business Committee?

None of the Members were assigned this? We have the Minority Leader in the House, Hon. Abdi Hassan.

Hon. Minority Leader (Mr. Abdi Hassan): Thank you, Mr. Speaker sir. Pursuant to Standing Order 25 (1), this Assembly approves the Calendar of the Assembly (Regular Sessions) for the Fifth Session of the Assembly as contained in the Schedule attached to the Order Paper. Hon. Bishop to Second.

Hon. Deputy Speaker: Who is to second the Motion?

Hon. Member for Waithaka Ward (Mr. Anthony Njoroge): I second this Motion, Mr. Speaker.

(Question Proposed)

Hon. Karen Wanjiku: Thank you, Mr. Speaker sir. I stand to support this calendar because as you can see, Hon. Members, the word *sine die* as been removed. Again Members, you know next week God willing, we need to go to the Devolution Conference in Nakuru County and so tomorrow, we need to adjourn and we cannot adjourn without a calendar. We have been operating without a calendar and I believe if we pass this calendar, it will help us even next week for the adjournment. Thank you, I support.

Hon. Deputy Speaker: Thank you.

Hon. Member for Dandora Area III Ward (Mr. Charles Thuo): Thank you, Mr. Speaker sir, I beg to oppose this calendar. First, Mr. Speaker you noticed that now we are in February and we are supposed to go to elections in August and according to the calendar, we have like three months that we shall not be working. This means out of the six months that we are remaining with to be in the office, we shall be paid for only three months that we shall not work and that is not right.

Secondly, Mr. Speaker sir, we have pending businesses. Just a few minutes ago, Mr. Speaker, we had Members complaining about Statements and request for Statements that have not been answered. Before we close the business, it is important that should have performed the duties that brought us to this House by our electorates. It is then of great importance that we have this calendar amended. We are not against this calendar but we are requesting that it may be amended and the duration of the recess must be reduced.

Thirdly, Mr. Speaker, from 16th of June to 7th of August, it is supposed to be a recess. That is almost three months and the Members need to work and also earn the salary and allowances, Mr. Speaker sir. Earning a salary is a Constitutional right. So, I would ask that this Calendar be amended so that we can adjourn from 1st of August to 7th of August Mr. Speaker sir. Thank you.

(Loud Consultation)

Hon. Member for Eastleigh North Ward (Mr. Osman Adow): Thank you, Mr. Speaker, I rise to support the Motion. I think everyone who can see the calendar can see that the 1st recess is catered for in the primaries for the parties' nominations. So everybody will be busy. Therefore, nobody will be here attending even though it will be open. There will be no quorum here basically because everyone will be out there campaigning.

Secondly, the second recess is also the campaign period and maybe five Members will come here and still there will be no quorum. So, there is no point in not giving the people the recess. For that reason, I do support. Thank you.

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Thank you, Mr. Speaker for giving me this opportunity so that I add my voice in this Motion. I can remember the first time when this Motion came, I supported it. I have changed my mind seriously and today I am opposing it because after consulting with my fellow Members, Mr. Speaker, I want to be truthful to you. First, Members are very privy to their gratitude. If you say *sine die*, it means that we shall just come back at your will---

Hon. Deputy Speaker: Order, Hon. Member! We don't have *sine die* in the calendar.

Hon. Maxwell Ochar: Just one minute, Mr. Speaker, I am making my statement.

Hon. Deputy Speaker: But don't mislead the House.

Hon. Maxwell Ochar: Today, it has been substituted by long recess. By that time, we are not here. What is the different between long recesses and *sine die* they still mean the same. As you can see the report of the Select Committee which has been tabled before us here today, we want to discuss about Car loan which ends in June 30th and the Mortgage which ends in June 30th and this one by the Auditor General. For sure by that time, we shall be out of this Assembly. If you want to come back, we will be at the end of the leadership of this Assembly if they don't want us to come back then that will be the end of the Assembly.

Mr. Speaker, I am suggesting that if at all we have to go on recess---

Hon. Minority Leader: Point of order.

Hon. Deputy Speaker: Permission granted.

Hon. Minority Leader: It is sad, Mr. Speaker sir, for Hon. Ochar to mislead the House. The calendar we are seeing here is across the 47 Counties and it corresponds with the Senate calendar and the National Assembly calendar.

Hon. Abdi Hassan: Mr. Speaker, It is sad (*Loud Consultation*) let me finish---

(*Loud Consultation*)

Hon. Deputy Speaker: Order, Members! Give Hon. Minority time.

Hon. Minority Leader: It is absurd for someone to purpot that we will be here in June. Nobody knows if we will be here in June because some of us will fail the nomination Mr. Speaker sir. Can you protect me?

Hon. Deputy Speaker: Order, Members! Why do you engage a Member and you have not been given an opportunity to speak?

Hon. Minority Leader: Mr. Speaker sir---

Hon. Deputy Speaker: Order, Hon Akuk! Order, Member please! The Member is on a point of Order. Can you give him time to conclude, the Member is on a Point of Order, Hon. Akuk! Can you take your seat please!

Hon. Minority Leader: Mr. Speaker sir, it is absurd; I have never seen any Assembly or any council for the last 40 years which has sat in June. If you have not planned yourself for the last 4 years, you can't plan in the month of June. Even right now as we are speaking, we are facing quorum hitches. For someone to tell us that in June we will be in this House, unless someone is not serious to be re-elected or he has succumbed to his fate, some of us are ready to campaign so that we can come back to this House. If anybody is serious in this House, I don't see the reason for anybody to decline to support this Motion.

Mr. Speaker sir on a very serious note, if we fail to pass this calendar, the Speaker has the authority, because the House cannot run without a calendar, unless people don't go through their Standing Orders and the County Government Act. Mr. Speaker sir, someone is talking about gratuity; what is the connection between gratuity and the Assembly calendar? The gratuity is a constitutional right for you. You will be given!

Mr. Speaker sir, the problem with MCAs of Nairobi is that they see malice in every move which is in bad faith. It is not a must for them to pass this calendar; if you refuse to pass the calendar we will all go to our Wards because that is what the Standing Order entails. Unless you have not read your Standing Order; it is in black and white. Thank you. I ask my colleague, Mr. Ochar, not to mislead this House.

Hon. Member for Nyayo Highrise (Mr. Maurice Akuk): Hon. Speaker sir, our Minority Leader should know well that there are these words known as 'in' and 'on', has a specific meaning---

Hon. Deputy Speaker: That is ruled out of order, Hon. Akuk. Order, Member! That is undermining another Member of this House. It is not allowed. Hon. Maxwell Ochar, can you proceed.

Hon. Maxwell Ochar: Yes Mr. Speaker, I think Minority Leader is misleading this House by saying we cannot sit over June. I can recollect very well and I forgive you because you don't normally come to the Assembly and you don't normally come for the retreats. When we were in the retreat, we were told very clearly that we shall sit until 7th of August.

Hon. Deputy Speaker: Hon. Ochar, you may subject the Hon. Member for incompetence, kindly withdraw the statement.

Hon. Maxwell Ochar: I withdraw and apologize as you have directed but that is the whole truth. Mr. Speaker, again, I would tell my brother that this is a new dispensation; they had never sat in the

Assembly when they were councilors. So today, we are in a new dispensation whereby everything is very different from the former defunct County Council. We are very privy to what he calls our Constitutional right which is gratuity and according to what we were told that by end of July, we shall be given our money, let us adjourn by then when everything is in our hands.

Mr. Speaker I really oppose this unless we do amendments because the Assembly cannot be arm twisted that when the Speaker says this that is law. We are the Assembly, not the Speaker. Thank you, Hon. Speaker:

Hon. Deputy Speaker: Thank you, Hon. Members. Before I grant other Members opportunity to contribute, kindly, I would want to refresh your mind a bit by terms of reference in your Standing Order 24 (4). I would want to give you at least a minute or less to go through your Standing Orders on what it dictates. Please Hon. Ochar, I have given direction. Kindly members I have given you opportunity to revisit your Standing Order 24 (4), it reads, *Despite paragraphs (1), (2) and (3), a period of three months shall not intervene between the last sitting of the County Assembly in one Session and the first sitting thereof in the next Session*, which should not exceed more than 90 days.

Hon. Members in accordance with provision of Standing Order 24 (4), the first sitting of the second Assembly ought to be held not more than 30 days after the date of election tentatively not later than September 8th 2017. Hon Ochar, you may proceed. You had concluded? Please you have only one minute to conclude.

Hon. Maxwell Ochar: Thank you, Mr. Speaker. Given that we have to discuss the car loan which was brought before the Assembly by---

(Laughter)

You see, Mr. Speaker, when you are laughing then I have to stop and look at you.

Hon. Deputy Speaker: Hon. Ochar, you have just dropped from gratuity to car loan now. But you may proceed.

Hon. Maxwell Ochar: But am giving you all my facts. The car loan is ending June 30th and if I am a Member who defaulted? Mortgage by 30th June. By that time we shall be at whims of leadership of this House. Where shall we get Assembly if the leadership does not call the Assembly to order? So those are the reasons why am opposing this unless we made amendments. Mr. Speaker the rule you have quoted right now---

Hon. Anthony Karanja: Mr. Speaker, I want to bring to the attention of some Members that we are still Members of this Assembly until August 7th. We will still receive our salaries to that day---

(Loud consultations)

Hon. Deputy Speaker: Order, members! Can you give the Hon. Anthony time? Don't engage the Member directly like that. This is an orderly House.

Hon. Anthony Karanja: Mr. Speaker, maybe you can make a decision about Committee sittings during the time when we are on recess. I think that is the biggest bone of contention. We will still be earning, we will still be paid during that time.

Hon. Minority Leader: Mr. Speaker sir, I want to inform Hon. Members that when we go for recess in June, the Committee meetings will still be on. If Members will be able to make it, the meetings will still be on.

Hon. Deputy Speaker: Thank you, Hon. Abdi. Hon. Alexina

Hon. Alexina Mudi (Nominated Member): Thank you, Mr. Speaker sir; I am here in support of this Motion. In our understanding that when we go for recess, for the nominations and primaries we are expecting of course party jumping from one to another. We were made clear that the moment you quit from the party that brought you to this House to another one, that is the time your salary stops. We are not very sure if each of us will get our nominations from same party that nominated us or voted for us to be here. It is therefore in good understanding from each of us if we can look at it that let us go in nomination, come back. If we are meant to go even if we don't come back on 7th of August, the timeline is on our neck we are going. I therefore support the Motion but, Mr. Speaker sir, if the Members feel it's deem for them to come for the Committee meetings, then it should be captured in the calendar recommendations. Thank you, Mr. Speaker.

Hon. Jacqueline Nyang'ala (Nominated Member): Thank you, Mr. Speaker. Mr. Speaker we cannot go every week discussing the same thing and going round and round. Why don't we do this, why don't we sit down in a Kamukunji and agree and bring this thing and we pass it. Thank you.

Hon. Charles Thuo: Point of Order sir!

Hon. Deputy Speaker: Your mic is on, Hon. Thuo.

Hon. Charles Thuo: Thank you. I think this debate, Mr. Speaker sir, is taking the right direction.

Hon. Deputy Speaker: Order, Hon. Akuk! He has not.

Hon. Charles Thuo: Hon. Akuk, this is not your day as the Chair, this is not the day you chased me away for three weeks.

Hon. Deputy Speaker: Order, Hon. Members! It has been brought to the attention of the Chair you had already made your contribution. Kindly take your seat. Please take your seat.

Hon. Charles Thuo: Thank you sir, my mic is on again.

Hon. Deputy Speaker: Just switch off your mic.

Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala): Thank you Mr. Speaker. Looking at the wording of “long recess” it leaves a lot to be desired and it needs interpretation because *sine die* and “long recess” is one and the same thing. Secondly, this is our last time that we are exiting and we need laid down procedures that will guide us with a calendar and it seems that Members are still not in the loop with what is taking place. We are only requesting that instead of going round and round as Hon. Jackline Nyang’ala is saying, we go for a retreat and---

(Loud consultations)

Hon. Deputy Speaker: Order, Hon. Member! You are ruled out of order, take your seat.

Hon. Member for Nyayo High-rise Ward (Mr. Maurice Akuk): Thank you Mr. Speaker sir for allowing me to contribute to this Motion. However much I support this Motion, Mr. Speaker sir, I support with some reservations because you have referred to Standing Order No. 24 which as per my interpretation, it is not tallying with what we are discussing today and it does not give you authority to tell us that we need four months to proceed for the final recess. Mr. Speaker sir, I want to draw your attention to Standing Order No. 25 (1) which is also very clear and this should have happened at the beginning of this session which I don’t know why we are late to discuss this today. Standing Order No. 25 (1) is very clear that this thing would have been discussed in the House Business Committee and it needs to seek approval of this Assembly.

Mr. Speaker sir, kindly allow these Members to further deliberate and debate on this issue as you have been asked so that we do not shoot it down. Looking at what is happening now and trying to gauge the mood of the House, we are going to lose this particular Motion and if we lose it, I know you are very much aware of the consequences. So, I will kindly ask you to evoke Standing Order No 1 at your own discretion Mr. Speaker sir---

Hon. Deputy Speaker: Proceed.

Hon. Maurice Akuk: Mr. Speaker sir, it was just a humble request that we do not need to go through this again and if possible, please differ the Motion. Thank you.

Hon. Deputy Speaker: Your request is actually noted, Hon. Akuk. I would only remind Members that we are just about to attend the Devolution Conference which is coming up next week. But in case we do not pass the calendar, then that means we will be here to attend the Plenary and all the activities. So your request has been noted, and I will give a direction on that. Hon. Caroline Muga.

Hon. Caroline Muga: Thank you, Mr. Speaker. I stand to support this Motion. One thing I must say, if not for any other reason, we need a calendar. We cannot operate in limbo; we need something to guide us. We need the calendar to guide us and it was informed by the events that will take place between now and August 31st. I am very sure that Hon. Thuo will not be here because he will be busy campaigning.

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So, Mr. Speaker I want to support this Motion and plead with my fellow Members, if we leave it like that, then it means that this House can be adjourned any time. It means we won't have direction. But if we have this calendar, we are guided by it and if need be for us to come for a Special sitting, we can always come back. I don't know why the fear. Mr. Speaker, I must say this because the reason why this House has not really performed the way we should is because we are so suspicious every time when somebody does something is like an ulterior motive. In this case there is no ulterior motive. So, Mr. Speaker, I beg to support this Motion.

Hon. Tabitha Juma (Nominated Member): Thank you, Mr. Speaker for this opportunity I stand to disagree with this Motion. My reasons are; these calendars are drawn for us Members and they are supposed to guide us. I think there is nothing sinister with us sitting down and agreeing on this calendar on how we want to do our things because it is about us. It is not about any person outside there, it is about the Member of this House. It is upon us to sit down and look at this calendar and discuss what we want to do within this time and then agree so that we can pass it any time. It is mean for us we have no reason to go through business without a calendar. It is not acceptable but we have to sit down and agree on what we want done and how.

Hon. Deputy Speaker: Thank you, Mr. Speaker.

Hon. Member you must be in agreement that there is a House Business Committee which normally forwards the business. So it had already been agreed in the House Business Committee. Hon. Omwenga.

Hon. Member for Utawala Ward (Mr. Joash Omwenga): Thank you, Mr. Speaker. I am trying to read the mood of the Members in the House and what I have seen is like the Members are not comfortable with the calendar. We are requesting that Mr. Speaker, you can withdraw this Motion then it can be discussed again in the House Business Committee. Thank you.

Hon. David Kairu): Thank you very much, Mr. Speaker sir for giving me this opportunity. Allow me to support this Motion. Let the Hon. Members allow their minds to agree that our term in this House is coming to an end and for that reason, it is important for these Members to be given a sort of notice to know that at a certain time they are leaving this House and with that notice they will be able to adjust themselves so that if you do not come again, you will be able to continue with your life. Thank you very much, Mr. Speaker.

Hon. Deputy Speaker: Hon. Tabitha.

Hon. Tabitha Ndigirigi (Nominated Member): Thank you, Mr. Speaker. Allow me to oppose this Motion with reasons. One, you are aware all of us are having car loans, mortgage and we are having some of our Members with cases in the EACC and we are supposed to finish these matters before things go on. We must oppose this Motion with full force. Thank you very much.

Hon. Deputy Speaker: Moses Ogeto as the last one.

Hon. Member for Kilimani Ward (Mr. Moses Ogeto): Mr. Speaker, I had requested for a Point of order because my colleague here Hon. Caroline Muga was saying that whatever you are doing is illegal. I wanted her to explain because it seems since we started operating in this House it seems we have been on illegal business. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Members. Hon. Members on Procedural Motion No. 8, that pursuant to standing order 25 (5) this Assembly approves the calendar of the Assembly regular sessions for the Fifth Session of the Assembly as contained on the schedule and attached to the Order Paper.

Hon. Members, I restrain myself and defer putting the question on this to tomorrow 2:30 p.m. so that Members may find time to consult so that we read from the same script. Thank you.

MOTION

Hon. Deputy Speaker: The Chairperson for Budget and Appropriation Committee. You may proceed.

Hon. Member for Embakasi Ward (Mr. Michael Ogada): Thank you very much, Mr. Speaker sir. Can I move? These guys are disturbing me.

Hon. Deputy Speaker: It is allowed. We don't have a guy in the House, we have Hon. Members. Hon. Members, this is a very detailed report. It is the estimate budget; kindly listen to what the Chairman is about to take you through. You may proceed, Hon. Member.

(Hon. Member rose on a point of Order)

Hon. Deputy Speaker: It is not possible when a Member is moving a Motion.

NAIROBI CITY COUNTY FISCAL STRATEGY PAPER FOR THE FY 2017/18 AND THE NAIROBI CITY COUNTY DEBT MANAGEMENT STRATEGY PAPER FOR THE FINANCIAL YEAR 2017/18

Hon. Michael Ogada: Thank you, Mr. Speaker sir. I beg to move that this County Assembly adopts the Nairobi City County Fiscal Strategy Paper for the FY 2017/18 and the Nairobi City County Debt Management Strategy Paper for the Financial Year 2017/18.

Mr. Speaker Sir, the requirement for the County Treasury to submit to this County Assembly the County Fiscal Strategy Paper for approval is underpinned in the provisions of Section 117 (1) of the Public Finance Management (PFM) Act, 2012. The quoted provisions require that the document be presented to the County Assembly by the 28th day of February in each year and approved not later than the 15th day of the following month. In furtherance of the above, and given that the year 2017 is anticipated to be an

election year, the County Treasury issued guidelines in line with the provisions of Section 128 (2) of the PFM Act 2012 which adjusted the budget calendar. This adjustment was aimed at ensuring that the legislators dispense with the crucial business of budget making before they retire to the electorate to campaign and renew their terms of service. Among other provisions, the revised budget calendar requires that the budget estimates for the FY 2017-18 be approved by the end of March 2017.

Mr. Speaker Sir, the CFSP for the FY 2017-18 was tabled in the County Assembly on the 22nd day of November 2016, at a time when the County Assembly was about to adjourn for its long recess. Having been laid, and in line with the provisions of Standing Order 206, the paper stood committed to all the Sectoral Committees and the Budget Committee for consideration and reporting as per their respective mandates. The guiding legal principles of the law require that when finalizing the consideration of any budget document, the Budget Committee shall consult the Sectoral Committees, members of the public and the County Executive Committee Member for Finance.

Further, to explain and provide basis for any borrowing and deficit financing going forward, the provisions of Section 123 (1) of the PFM Act, 2012 require that on the same date the County Treasury submits the CFSP it also submits the Debt Management Strategy Paper (DMSP). The DMSP which is expected to be aligned to the CFSP sets forth the debt management strategies for the County Government over the medium term including actual and potential liabilities. The provisions indeed require that the DMSP shall detail the loans and how the County Government would wish to deal with those loans over the medium term. It is in line with these provisions that the County Treasury submitted to the County Assembly the DMSP for approval.

Mr. Speaker Sir, starting the FY 2016-17 the Finance, Budget and Appropriations Committee made a conscious decision to review the Debt Management Strategy Paper alongside the County Fiscal Strategy Paper to enable it to have a holistic view of the budget projects and any future financing plans. Continuing with this resolution, the Committee notes that the DMSP has been underpinned on the County Fiscal Strategy Paper for the FY 2017-18 and the fiscal responsibility principles in the two papers are consistent.

Mr. Speaker Sir, this is the last CFSP and DMSP that the Members of the Budget Committee in the First Assembly of the Nairobi City County Government have had the utmost privilege to consider and recommend to this House for adoption. These are the last planning documents that are expected to roll out the residual aspects of the County Integrated Plan (CIDP) for the FY 2013-2017, set in motion a new CIDP and bring to life the Second County Governments. From the foregoing it is noteworthy that these are transition documents and they should therefore provide platform for the next phase (s) to succeed. The Finance, Budget and Appropriations Committee has in this regard undertaken due diligence to ensure that the fiscal strategies contained in the two documents would live up to their billing.

Mr. Speaker Sir, it is important to underline that the approval of the Motion on this report presented by the Budget Committee constitutes the County Assembly resolution setting forth the total overall projected revenue, the ceilings recommended for the County Government, and County Assembly and

where necessary, the total sums for each Vote and the allocations to individual programs for the Fiscal Year 2017-18. It is expected that this resolution shall be implemented without alterations whatsoever hence preventing the likelihood of this approval turning to an academic exercise.

Mr. Speaker Sir, the total County budget has been proposed for upward revision to Kshs. 35.79billion composed of Kshs. 24.16billion for recurrent and Kshs. 11.632billion for development expenditures. Further and as part of the above allocations, the County Treasury has proposed to allocate Kshs. 90million for emergency fund and Kshs. 15.63billion as employee costs including Kshs. 643million for Voluntary Early Retirement (VER). The Committee commends the County Treasury for having adopted the proposal of the County Assembly of pursuing VER as a way of managing the wage bill of the County. However, the Committee sought to know from the County Executive on how the figure of Kshs. 643million was arrived at and how the same would be implemented going forward. Further, the Committee was quick to point out that given that the rationale for implementation of VER is to contain the wage bill, it is expected that in a financial year when the program is being implemented there would be restricted growth in personnel costs. In these budget projections, the figure for salaries and wages is anticipated by about Kshs 300million from the amounts reported in the FY 2016-17.

Mr. Speaker Sir, , during the consideration of the CFSP 2016 the Committee lamented to this Chamber that the PFM Regulations had introduced provisions which limited the role of the County Assembly in the budget making process. The Committee considered provisions that the County Assembly total budget does not exceed the lower of seven percent of total county revenues or twice personnel emoluments as a backdoor attempt to take away the autonomy of the devolved legislatures. Further, the Committee was persuaded that the provisions which limited any amendments by the County Assembly on the annual budget estimates at not more 1% per Vote were meant to take away the fiscal oversight functions of the County Assembly. That notwithstanding, the Committee appreciates the Office of the Attorney General for having provided a lasting advisory on the above matters as well as the place of Regulations in relations to the powers provided by the Constitutional order. In that advisory, the Attorney General noted that the drafter of the PFM Regulations erred to limit the role of the County Assembly in budgeting. It was also his considered view that where a power is guaranteed by the principal act the same cannot be taken away through another subsidiary legislation. The Committee notes that these are positive steps meant to safeguard the place and role of devolved systems government in the current dispensation.

Mr. Speaker Sir, the DMSP for the year 2017 provides that at the end of June 2016 the total stock of County debt stood at over Kshs. 48billion. This figure represents a Kshs. 3billion increase from the amount reported as at December 2015. The growth of public debt, the County Fiscal Strategy Paper asserts, is due to accrual of interest and penalties. The Committee notes that the County public debt would grow to unsustainable levels if nothing is done to reverse the alarming trends. Measures on how to settle financial commitments with commercial banks, pay creditors and prudently implement Collective Bargaining Agreements without injuring the County's financial longevity need to be explored in line with the strategies contained in the DMSP 2017.

The National Government should also support our efforts to clean our books by providing us details of the National Government guaranteed loans which were repaid and those ones which were not. On the other hand, the amounts owed to the County Government have also been piling up at a fast rate. It is also reported that, figures have increased from Kshs. 63.5 billion as at 2013 to Kshs. 208 billion in the year 2016. The Committee was not convinced with the explanations given by the Finance Minister for this unwanted growth.

Mr. Speaker, in the previous financial years the Committee has lamented the lack of programs and projects in the submitted County Fiscal Strategy Papers. Members may recall that during the consideration of the CFSP for the FY 2016-17, the Committees were called upon to request for that information from their respective Sectors and use the same as basis for resource reallocations and program adjustments. The Budget Committee notes that whereas over time the County has made progress in contents of this Paper, the work of Sectoral Committees and Budget Committee was still hampered by lack of cost sector programs that would enhance the oversight functions of those Committees. However, the Budget Committee requested for the information from the County Treasury and it was provided.

Mr. Speaker to ensure that the County Sector ceilings are realistic and within the most achievable resource envelope, the Committee would be making recommendations on the same to this House for adoption.

COMMITTEE'S RECOMMENDATIONS

Mr. Speaker, the County Fiscal Strategy Paper for the FY 2017-18 as submitted, had many shortcomings that need to be addressed to ensure that the paper complies with the legal parameters. The remainder of this report should hence be construed as proposed amendment to the submitted CFSP while considering the recommendations of the County Treasury, the Sectors, the Sectoral Committees and Members of the public.

Therefore, Mr. Speaker Sir, in addition to the recommendations contained in other parts of this report, the Committee recommends that the Assembly resolves as follows:

Policy Measures

- i. That in compliance with the provision of Section 107 (2) (c) and Regulation 25 (1) (b) the Assembly resolves that the County continues implementing the freeze on replacement of employees leaving the service due to natural attrition and retirement as approved in the CFSP for the FY 2016-17. The County maintains the freeze any additional employment over the medium term and that any specialized employment requirement shall be subject to budgetary provision as approved by this County Assembly.
- ii. That the total allocation and expenditure on development for the County Government for the next two financial years shall not be less than 32% of the total County budget;

- iii. That the County Treasury avails the specific projects and programs for all sector while tabling the estimates;
- iv. That the County implements and finalizes the incomplete projects from the previous financial years;
- v. That the Public Service Management develops a policy to guide Voluntary Early Retirement;
- vi. That the Legal Affairs department develops a policy regarding decretal fees and that the same be presented to this County Assembly for consideration;
- vii. That the ICT Sector develops and presents to the County Assembly for approval the ICT policy considering the role of the various Sectors in coming up with IT related activities;
- viii. The CEC Finance to come up with proper policies to regulate commitments to march quarterly commitments to revenues for each quarter;
- ix. That measures be initiated to ensure that actual expenditure on wages and salaries reduces gradually to 35% by FY 2020/21;
- x. That the County through its various departments, in compliance with the Nairobi City County Public Participation Act 2015, ensures that there are sufficient allocations not less than 2% of total county revenues for public participation; and
- xi. That the CEC Education develops a policy on how to support Artists in the County.

Expenditure Ceilings

- i. That the Budget for County Executive Services be enhanced by Kshs.30million to cater for the allowances and activities of the non- state actors of the County Budget and Economic Forum;
- ii. That the ceilings for the two arms of government be set as follows:

County Assembly- Kshs. 1.615billion

County Executive – Kshs.34. 299billion

That the schedules 1 and 2 attached to this report forms the basis for the FY 2017/18 budget.

Medium Term Debt Management Strategy

That the Assembly approves the debt management strategies underpinning the 2017 CFSP and the budget estimates for the FY 2017-18 and that the same remains binding for the next two financial years

Mr. Speaker Sir, in conclusion and pursuant to the provisions of Section 117 (6), Section 123 of the Public Finance Management Act 2012 and Standing Order 206 (7) the County Budget and Appropriation Committee recommends that: This County Assembly adopts the Nairobi City County Fiscal Strategy Paper for the FY 2017/18 and the Nairobi City County Debt Management Strategy Paper for the FY 2017/18

Mr. Speaker sir, I will call upon Hon. Azangu to come and second it.

Hon. Deputy Speaker: Hon. Azangu, please.



Hon. Member for Land Mawe Ward (Mr. Herman Azangu): Mr. Speaker sir, I raise to second the Motion which the Chairman has gone through. We discussed with the entire committee and are satisfied with it.

Hon. Deputy Speaker: Thank you.

(Question proposed)

Hon. Member for Githurai Ward (Mr. Jackson Mwangi): Mr. Speaker sir, as I rise to support, I find the work of the Chairman and the able Committee very well done. And without much ado, kindly call the mover to reply.

Hon. Karen Wanjiku: Thank you, Mr. Speaker. I beg to support. I need to comment. Even if I am supporting, I don't understand why they are freezing replacements of employees. Taking an example of Nairobi County, the last time Nairobi County has employed ECD teachers was more than 20 years ago. We understand that there are ECD teachers who have died, some who are bedridden, some who have retired. Why can't we replace them? And how is replacing and wage bill marrying? I can't understand. If you freeze and maintain additional employment, that is understandable. But, if for example, the watchmen that are in our schools or health facilities have died, the ambulance drivers who are drunk and have been sent away work, why can't we replace? I don't understand how that one is interfering with our budget. It is just replacement. I can't agree with that part of freezing replacements.

Though I am supporting the Motion, when we say about ICT policy, we need one but who is going to come up with that? We don't have a Committee. We have been talking about a committee of ICT. Every sector is using ICT and we need that policy. But we don't have a committee. We need to do recommendations that are practical. I agree with the ceilings that have been set. For example, the one for the Executive is really high and I hope it's justifiable. I hereby beg to support. I have no option but to do so. Thank you.

Hon. Deputy Speaker: Hon. Akuk

Hon. Maurice Akuk: Thank you, Mr. Speaker sir for giving me this opportunity. I would like to really thank the Chairman of Budget Committee and his team. Unfortunately, I was in a Committee the other day where Members were referred to as a team and they were not impressed, so maybe I should still use the word 'his team of Hon. Members'. I beg to support this Motion. Apart from being thankful to the Chairman, I also want to be grateful to his entire team because some of the presentations that I made out of my own volition have been put into consideration. I drove all the way to Naivasha and requested for an opportunity to give a presentation on ICT and I am glad that because they gave me the chance, listened to my presentation and have now given a recommendation which we all appreciate.

Mr. Speaker sir, it is quite important that the ICT sector has been given the chance to come up with a policy that will guide us on IT matters in this County. One thing that came to my attention and made me

drive all the way to Naivasha to meet the Budget committee, Mr. Speaker sir, is that in the CFSP report, we discovered that many of the departments in this County tend to think that they can develop their own IT departments within the sectors yet we do have an existing ICT department that has developed a magnificent data center. We still invite the Budget committee to come and see it for themselves. The data Centre has cost this County nearly Ksh. 350 million even though most of it has not been paid. We are proud of the achievement even if people think that the Nairobi City County is doing nothing. People want to see tangible and verifiable deliverables but we have docile deliverables within City Hall itself that needs to be told to all the Nairobi City residents. I am a proud Member of this County Assembly. I talk proudly on the data Centre because it is something that I do not think exists in any other County, all the 47. Therefore, I also want to invite you, Mr. Speaker, to also take your time to visit the data Centre and its equipment.

We are soon introducing the ICRSM which is the Integrated County Revenue Management System that will run parallel with Jambo Pay. It will help the Budget Committee acquire the revenue they need. I know that we only have got a few months left in office and I do not know whether the Chairman for Budget will come back to this Assembly and if he does, I will vote for him to become the Chair for Budget. I believe that whoever will be here to discuss this particular paper will be talking of a budget of not less than 50-60 billion. We are losing revenue. There is also something that I did not mention in the Committee and they have captured in their recommendations in number five. We realized that the legal department has had problems with the decretal fees. This has forced them not to use the IFMIS system because what we allocate them every year is too little and it is important for them to come up with a policy guiding on how well this can be achieved without stealing cookies from the jar belonging to another person.

What has been happening, Mr. Speaker sir is that the legal department have a lot of orders that need to be paid for on an immediate cause. That is dangerous because when we give money to this department and we do not foresee what decretal fees are going to be then definitely they will have to find money from somewhere else. I stand to support and also to thank the Budget committee. I continue to agree with you on putting a freeze on employment is something that this County needs. Reason being the overblowing wage Bill, it is too much and is taken more than what is stipulated. Mr. Speaker sir, with all due respect and honor, I kindly ask this Assembly to agree with me that for once we have a budget committee that has delivered. Thank you Mr. Speaker sir.

Hon. Deputy Speaker: Thank you very much. Hon. Maxwell Ochar

Hon. Maxwell Ochar: Thank you, Mr. Speaker. I request the Chair to call upon the mover of the Motion to reply

Hon. Deputy Speaker: Thank you, Hon. Ochar. Next time when you refer to the same, kindly refer to your Standing Orders. I will honor that. Hon. Ogada, kindly reply on your Motion.

Hon. Micheal Ogada: Thank you very much, Mr. Speaker sir. I am glad and happy that the Hon. Members have supported the Motion. I wish to allay fears of Hon. Wanjiku on a few issues. On the ICT

policy, during our hearings we realized that every sector in the County Government was requesting for money to set up an ICT centre for their respective departments. We then thought that it is necessary that we have an ICT department which is headed by experts under the same roof because a lot of money has been tuned in, in the tune of Ksh. 300-400 million. This will help control these other sectors from coming up with haphazard means to fleece the County. This policy will therefore ensure that all ICT requirements are centralized within the County.

On the freezing of employment, we have a law that states that we should not be paying wages of more than 35% of our revenue but as it is, we are between 43-46% which is far much above what is required by law. Therefore our request to the County Government is to make sure that by the year 2020 they are able to bring the Wage Bill to the legal requirement because as it is we are acting outside the law.

According to the recommendations that I have made, if there will be need for specialized employment like ECD education and the architects, they can always make a formal request to the Assembly so that we can allocate specific funds for that particular job only. We do not want them to be so free that they get to employ at will because we are not able to sustain the wage bill. Developments can't take off in Nairobi because all the money we get is purely going to the wages. Otherwise thank you very Members for supporting this motion.

Hon. Deputy Speaker: Thank you Hon. Michael.

(Question put and agreed to)

ADJOURNMENT

Thank you, Hon. Members. The Assembly stands adjourned to tomorrow 2:30p.m. Thank you.

The House rose at 4:13 p.m.

