



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fifth Session

Thursday 16th March, 2017

The House met at 2.30 p.m.

(Hon Temporary Deputy Speaker (Mr. Samuel Nyag'wara) in the chair)

PRAYERS

Hon. Temporary Deputy Speaker: Hon. Members, I have information that there is lack of quorum. I therefore direct the Sergent-At-Arms to ring the bell for ten minutes.

(Quorum bell rang for 10 minutes)

Hon. Temporary Deputy Speaker: Hon. Members, there is quorum now. We can proceed.

PAPERS

THE BUDGET ESTIMATES FOR RECURRENT AND DEVELOPMENT EXPENDITURE FOR THE NAIROBI CITY COUNTY ASSEMBLY SERVICE BOARD FOR THE FINANCIAL YEAR 2017/18 AND PROJECTION FOR 2018/19 AND 2019/20

Hon. Member for Hospital Ward (Mr. George Ocholla): Thank you Mr. Speaker sir. Pursuant to section 129 (3) of the Public Finance Management Act 2012, I beg to lay the following paper on the table of

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the Assembly today Thursday 16th March, 2017, the Budget estimates for recurrent and development expenditure for the Nairobi City County Assembly Service Board for the financial year 2017/18 and projection for 2018/19 and 2019/20.

THE BUDGET ESTIMATES OF THE NAIROBI CITY COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2017/18

Hon. George Ochola: Mr. Speaker sir, again, pursuant to section 129 (2a) of the Public Finance Management Act 2012, I beg to lay the following paper on the table of the Assembly today Thursday 16th March 2017, the Budget estimates of the Nairobi City County Executive for the financial year 2017/18. I beg to lay.

THE REPORT OF THE SECTORIAL COMMITTEE ON TRANSPORT, ROADS AND PUBLIC WORKS ON THE INSPECTION VISIT TO BABA DOGO WARD

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Mr. Speaker sir, pursuant to Standing Order 180 section 6, I beg to lay the following paper on the table of the Assembly today Thursday 16th March, 2017, the report of the Sectorial Committee on Transport Roads and Public Works on the inspection site visit to Baba Dogo Ward.

THE REPORT OF THE SECTORIAL COMMITTEE ON TRANSPORT, ROADS AND PUBLIC WORKS ON THE INSPECTION VISIT TO KIMONDO ROAD IN KWARE WARD

Hon. Kennedy Oduru: Again Hon. Speaker sir, in pursuant to Standing Order 180 section 6 I beg to lay the following paper on the table of the Assembly today Thursday 16th March 2017, the report of the Sectorial Committee on Transport Roads and Public Works on the inspection visit to Kimondo Road in Kware Ward. Thank you.

STATEMENTS

Hon. Temporary Deputy Speaker: Yes Hon. Nyangala


Hon. Nominated Member (Ms. Jacqueline Nyangala): Thank you Mr. Speaker. I have a couple of responses for the following; statement requested by Hon. Samuel Nyangwara, the Ward Representative of Viwandani and from my understanding he is okay with the response Mr. Speaker.

Hon. Temporary Deputy Speaker: I direct that particular response to be brought back next week on Tuesday because the Member who requested for it is not in a position to interrogate it. He had informed the Chair so. Thank you

Hon. Jacqueline Nyangala: Thank you Mr. Speaker. There is another request from Hon. Kiama. He is not in the House, however he said that he was okay with the response, so I guess I do not have to read through.

Hon. Temporary Deputy Speaker: Hon. Kiama?

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Hon. Member for Njiru Ward (Mr. Kennedy Thugi): Mr. Speaker, I can confirm that the Hon. Kiama is in concurrence with the response as requested from the Committee on Trade and Tourism.

Hon. Temporary Deputy Speaker: The Hon. Member should have had the audacity to approach the Chair and inform him of the same.

Hon. Kennedy Thugi: Mr. Speaker, I think that because he had already informed the respondent, you should kindly allow Hon. Nyangala to proceed.

Hon. Temporary Deputy Speaker: Do you have any written authority from the Member?

Hon. Kennedy Thugi: Mr. Speaker sir, I only have his verbal communication. I am also in possession of the response to confirm that he is okay with it.

Hon. Temporary Deputy Speaker: That request is dropped till that time when that Hon. Member will be in the House. Can you proceed!

Hon. Jacqueline Nyangala: Thank you Mr. Speaker. This is a response to a statement requested by Hon. Osman Adow. We have discussed with him and he is concurrent with the response however, he is not in the House.

Hon. Temporary Deputy Speaker: Hon. Osman Adow? Any Member who has any written information from the Member? That one is equally dropped to appear next week

Hon. Jacqueline Nyangala: Another statement requested by Hon. Marion Githinji who is in concurrence with the response. However, she is not in the House.

Hon. Temporary Deputy Speaker: Where are these Members?

Hon. Jacqueline Nyangala: I have no idea

(Laughter)

Hon. Jacqueline Nyangala: Some are in Naivasha for the Labour Committee

Hon. Temporary Deputy Speaker: That one is also dropped to appear next week on the Order Paper

Hon. Jacqueline Nyangala: Statement requested by Hon. Alexander Mulatya. He is in the House and in concurrence with the same

Hon. Temporary Deputy Speaker: Can you confirm Hon. Mulatya?

Hon. Member for Kwa Njenga Ward (Mr. Alexander Mulatya): Thank you Mr. Speaker sir. I agree with the response

Hon. Temporary Deputy Speaker: For the benefit of Members Hon. Nyangala. These statements are properties of this House and so the idea that you have agreed with the Members who requested for the statements does not arise

Hon. Jacqueline Nyangala: Mr. Speaker, considering the time and the fact that we do not want to lose out on quorum and not go to Mombasa, I was of the idea that they agree so that I don't have to read through the whole statement. Thank you.

Hon. Temporary Deputy Speaker: Hon. Members, anybody who has got an issue on Hon. Mulatya's question on the Trade and Tourism Committee? Can we proceed? Hon. Ochola?

**USE OF THE COUNTY GOVERNMENT VEHICLES IN POLITICAL CAMPAIGNS BY UNAUTHORIZED PERSON
IN HOSPITAL WARD.**

Hon. Member for Hospital Ward (Mr. George Ochola): Thank you Mr. Speaker. I have a request for statement. Pursuant to Standing Order 41 (2) (c) I wish to request for a statement from the Chairperson of Sectoral Committee on Transport, Roads and Public Works regarding the use of the County Government vehicles in political campaigns by unauthorized person in Hospital Ward.

Hon. Speaker, Article 75 (1) of the Constitution states that a state officer shall behave whether in public and official life, in private life or in association with other persons, in a manner that avoids compromising any public or official interest in favor of a personal interest.

Hon. Speaker, on 12th March 2017, Mr. Geoffrey Okuto Otieno, a staff of the County Executive who is also an aspirant in Hospital Ward used a motor vehicle registration no. 47CG330A for campaign purposes in Hospital Ward.

Hon. Speaker, in the statement, the Chairperson should inquire into and report on;

1. Confirm the use of County vehicle registration number 47CG330A for campaign purposes by a County Executive staff who is also an aspirant in Hospital Ward on 12/3/2017 and who authorized its use.
2. What measures has the County Executive put in place to ensure that public resources are not misused.

Thank you.

Hon. Temporary Deputy Speaker: Hon. Chair?

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you Hon. Speaker sir. That one is a very serious matter and promise that I will take a serious action on it. That means that the Hon. Member will get a response in seven days after we have come back from our retreat in Mombasa. Thank you Mr. Speaker sir.

Hon. Temporary Deputy Speaker: Are you okay with that Hon. Ochola? Thank you.

MOTION

ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON PUBLIC ACCOUNTS ON THE REPORT OF THE CONTROLLER OF BUDGET ON THE COUNTY GOVERNMENT BUDGET IMPLEMENTATION REVIEW FOR THE FIRST NINE MONTHS FY 2015/16

(Resumption of Debate interrupted on Tuesday 14th March 2017)

Hon. Temporary Deputy Speaker: I want to direct that we have a very serious amendment on Motion number 9 and because of that, and the Hon. Member has requested that we take the shortest time possible ---

(Loud consultations)

Order! Can we start with Motion no. 9? Order Hon. Members! Order no. 9. Can we proceed?
Chair?

Hon. Member for Embakasi West Ward (Mr. Robert Mbatia): Thank you Mr. Speaker. This is a resumption of the Motion that I had already moved. So, I seek your indulgence because the debate was on. Unless you call me to reply for which I am very ready.

Hon. Temporary Deputy Speaker: Hon. Ochola, you had an amendment? Hon. Chair, it was actually postponed because there was no enough Members to debate this particular important Motion. And because of that, I would not wish that the Motion have the same problem it had last time. That is why I want Hon. Ochola to proceed.

Hon. Deputy Speaker (Mr. Ken Ngondi): Point of Order please.

Hon. Temporary Deputy Speaker: Yes Hon. Deputy Speaker.

Hon. Deputy Speaker: Mr. Speaker, just to bring to your attention. You have actually allowed Hon. Member to rise on the floor of the House to actually make amendments or to move amendments on a Motion which has already gone through the process of plenary. Is it in order for this House to go through the amendments while the Motion is actually on motion? Mr. Speaker, I need clarification on that.

Hon. Temporary Deputy Speaker: Thank you so much Hon. Deputy Speaker. I will give directions concerning that particular issue in the next sitting. But as things stand now, and because I think it is quite in order that the ---

Hon. Petronila Ochieng (Nominated Member): Point of Order.

Hon. Temporary Deputy Speaker: Yes Hon. Member.

Hon. Petronila Ochieng: Thank you Mr. Speaker sir. I rise on Standing Order no. 53 to kindly ask you to defer putting the question to this particular Motion until further notice. Thank you.

Hon. Temporary Deputy Speaker: Thank you Hon. Member. Unfortunately, you did not give reasons as to why you would want us to stop putting the question. But I would like to respond further to the Hon. Member who raised the issue as to why the amendments are coming and yet the Motion has already been moved and it was in the process of Members contributing. I want to draw your attention to Standing Order no. 51 and confirm that amendments can come while the Motion is in the process. So, there is nothing wrong and it is quite in order that these amendments can be moved. Can you proceed Hon. Ochola?

Hon. George Ochola: Thank you Mr. Speaker for protecting me. And indeed the same Member was on the Chair on that day and he even differed the report to be discussed today when all Members are in the House. So, I wonder how he forgot so soon.

Mr. Speaker, this is to inform you that I intend to move the following amendments to the report of the Select Committee on Public Accounts on the report of the Controller of Budget on the County Government Budget Implementation Review for the first 9 months FY 2015/16 laid on the Table of the Assembly on Wednesday 1st March 2017.

That the report be amended in its recommendation as follows;

1. Inserting new recommendation number 2 as follows;
 - a) The County Treasury to submit to the Public Accounts Committee within 15 days the indicative evidence of amounts collected and banked at the County Revenue Fund account and
 - b) Indicate the amounts spent at the source for the 1st one month of Financial Year 2016/17.
2. In recommendation number 4, by inserting the sub-recommendation (E) and (F) as follows;
 - a) The said special audit report be furnished with the Assembly within 30 days and
 - b) Name the culprits found to have repeatedly flouted financial regulation on expenditure at source and recommend appropriate sanction.

Thank you Mr. Speaker.

Hon. Member for Embakasi West Ward (Mr. Robert Mbatia): Thank you Mr. Speaker I rise to support the amendments. I heard and understood the frustrations of the Assembly. This Assembly needs some quick action and quick fix on this matter because this has been ailing this Assembly for quite a long

time and also the Executive. Mr. Speaker the amendments actually give the timelines of whichever action that should be taken, so I as the Chair and part of the Public Accounts Committee I would like to say this is a wise thought by the Hon. Vice Chair of Budget Committee; I know they have suffered a lot as the Budget Committee, we have been asking them questions on what actions they are taking and on this note this is wise, it brings to mind why a report must be dealt with at Committee level then brought at plenary where there are so many brains to chip in to a complete document that will help this Assembly to oversight, so Mr. Speaker I support, thank you.

Hon. Temporary Deputy Speaker: Hon. Mbatia can you second the Motion? You only support it.

(Inaudible)

Hon. Temporary Deputy Speaker: Thank you.

(Question proposed)

Hon. William Abuka (Nominated Member): *Bwana asifiwe Spika*. Mr. Speaker I really want to appreciate and thank the mover of this Motion but I want to draw our attention to the general fatigue that is being witnessed in the House. Mr. Speaker you can even see from your own reading four errors that are ideally abnormal...

Hon. Temporary Deputy Speaker: Hon. Abuka can you point out where the errors are. Don't lecture the House. Point out!

(Loud consultations)

Hon. William Abuka: You know my trademark Hon. Speaker is honour. Can I point? Number one Mr. Speaker it is very abnormal - to say the least for lack of a better word, this is the first time I see the tradition in the Commonwealth Parliamentary debates that a mover of a Motion seconds the Motion. That is an abnormality. Number two, you cannot even figure out which financial year we are discussing. That is an abnormality. Number three Mr. Speaker you can see for yourself, I mean we don't need rocket science to gauge the fatigue levels of people. You can see for yourself people are tired; debates in parliament are not meant to be run ritualistically. There are things we should carry with substance.

(Applause)

It is not a ritual, we don't just talk for words to come out of the mouth, we really want to arrive at some advance that can help us run government. So in the absence of sobriety, are people strong, fresh, agile, outgoing...? I really want to beg us through your very good office that this debate be deferred to either 28th or 29th or thereabout when people are fresh, strong. This is the first time that we want to tell the world...

Hon. Temporary Deputy Speaker: Hon. Abuka, with due respect, unless you move a Motion that you want to adjourn this particular issue, you are out of order. Hon. Members in this House! And let it not be captured anywhere in the press, that Members coming here are fatigued. They are paid to sit in this House and contribute. Unless you are the one saying you are tired then we can excuse you; you cannot speak for the Members who are ready in this House and ready to contribute. Hon. Abuka you are out of order! Can we proceed? I call the mover of the Motion to reply.

Hon. George Ochola: Thank you Mr. Speaker sir...

(Loud consultations)

Hon. Temporary Deputy Speaker: Order! Hon. Abuka did I hear you? I want to caution you Hon. Abuka. With due respect this is just an amendment, the Motion was very clear and it actually had the financial year. What is wrong with amendments having a typo error? And it has been corrected and captured in our HANSARD! Hon. Abuka, let's have some respect.

Hon. George Ochola: Thank you Mr. Speaker sir for protecting me. Actually the amendments were for 2015- a report which we also have, and a typo error is always there. I want to thank the Honorable House for supporting this, it is high time we bring change and change is now and we also want to ascertain what the Controller of Budget alluded and the culprit and therefore Mr. Speaker I want to thank the House for the wonderful support they accorded me at this particular moment. Thank you Mr. Speaker.

(Question that House adopts the amendments put and agreed to)

(Loud consultations)

(Members shout that they want to vote)

Hon. Temporary Deputy Speaker (Mr. Samuel Nyang'wara): Can those Members who are standing stand; I really want to know their names.

(Loud consultations)

Hon. Temporary Deputy Speaker: Hon. Members, indeed I have confirmed through the Clerk that the number of Members who are supposed to request for a division bell to be rang is five and I can confirm that we can now proceed to voting.

(Loud consultations)

Hon. Member for Nairobi South Ward (Mr. Manoah Mboku): Point of Order Mr. Speaker.

(Loud consultations)

Hon. Manoah Mboku: Mr. Speaker I request that you put the question once more because some Members did not understand the question very well. So Mr. Speaker I request that you put the question once more.

(Loud consultations)

Hon. Temporary Deputy Speaker: Order Hon. Members! Hon. Members I had already given instructions that we proceed to voting.

(Loud consultations)

(The Division bell was rung)

Hon. Temporary Deputy Speaker: Order, Hon. Members! Hon. Kennedy Ng'ondi, Order!

Division bell has already been rung. I now want to give directions on what should be done, we are ready for voting. I want you to listen first and nobody should touch any button. Those who are for the Motion or against, you press 'Yes' or 'No' once. If you press twice or thrice, your vote will be spoilt. Those who don't know what to do, they can press 'Abstain' once. We have only three minutes to vote, let us start. It is the amendment, not the whole Motion.

(Loud consultations)

Order, Hon. Members! The division bell was rung and you cannot influence any further.

DIVISION

AMENDMENT OF BUDGET IMPLEMENTATION REVIEW FOR THE FIRST NINE MONTHS FY 2015/16

ELECTRONIC VOTING

AYES: 18

NOES: 26

ABSTENTIONS: 1

(Question negatived by 26 votes to 18)

Hon. Temporary Deputy Speaker: Hon. Members, we will now move to the original Motion. Can we proceed? It seems there is nobody to contribute; I will now take this opportunity to call the mover of the Motion to reply.

Hon. William Abuka (Nominated Member): I am on my feet.

Hon. Temporary Deputy Speaker: Yes, Hon. Abuka.

Hon. William Abuka: Mr. Speaker, I know you for one thing, you are a non-controversial person, a very good citizen of this Country. Debating such a crucial Motion now will more than ever do us harm as a Government. It is in this respect that I request you to hear this plea that the discussion of this Motion be deferred to a future date; a date that people will be not only strong and fresh but also focused to discuss matters of great importance to this County Government.

Hon. Temporary Deputy Speaker: Hon. Abuka, with due respect, this Motion failed to proceed last time simply because we could not raise a quorum.

Hon. William Abuka: Hon. Ken Ng'ondi, you are poisoning the mind of the Speaker.

Hon. Temporary Deputy Speaker: Hon. Abuka, I know what is itching you.

Hon. William Abuka: I have very good words for you now that you are going to be a Member of National Assembly. See how many people love you here.

Hon. Temporary Deputy Speaker: You are out of Order! Hon. Members, I can read the mood of this House, it is as if you don't want to discuss this Motion

Hon. Kennedy Ng'ondi: Point of Order.

Hon. Temporary Deputy Speaker: Chair, can you reply. Hon. Ken Ng'ondi, considering the position you have in this House, I will only give you the benefit of doubt and allow you to say what you want to say.

Hon. Kennedy Ng'ondi: Thank you, Mr. Speaker. I want to appeal to this House and make a request. This is at the interest of this House that we defer this Motion under Standing Order No. 50 (3) for further consultation. I would wish that we feel the concern of each and every Member of this Assembly. We have issues with this report and nobody is against it as it stands now but we are just about to make a very crucial commitment which we will never get out of.

So, Hon. Speaker, kindly give this Hon. House more time for consultation on this issue. I seek the support of Members, thank you.

(Applause)

Hon. Temporary Deputy Speaker: Hon. Members, Yes Hon. Abuka! Yes Hon. Nyangala!

(Laughter)

Hon. Jacqueline Nyangala (Nominated Member): Thank you Mr. Speaker, looking at the mood of the House I think it would be fair to defer the Motion. The Hon. Member sitting next to couldn't understand and actually he is the one who abstained because he didn't know what we were voting for. So can we defer and move to the next agenda and then we look at it when we come back. Thank you.

Hon. Temporary Deputy Speaker: Yes Hon. Chair!

Hon. Member for Embakasi West Ward (Mr. Robert Mbatia): Mr. Speaker, I want to concur with the last two speakers Hon. Members that by considering the mood and probably most Members were not in. This Motion should be given more time instead of discarding a wonderful document like this. We should give it more time and I request this House. Therefore we should defer the matter until the next sitting so that the Members can be acquainted with this report. Speaking on that Mr. Speaker.....

Hon. Temporary Deputy Speaker: Hon Chair, you are out of order. This House has a quorum of Members to debate on this particular Motion and come to its conclusion.

Hon. Robert Mbatia: Mr. Speaker, I do agree but this Motion was deferred in the last sitting by the Speaker and a ruling was made on the day, which Members were allowed to ventilate more in the next sitting.

Some Members just walked in without even having the copies of this report and they are just going through them at this point. It is would be very unfair either to throw it away. Even though a ruling was made by this Assembly and I respect it even the amendments were wonderful but probably the Members did not understand.

Hon. Temporary Deputy Speaker: Out of order again! Hon. Chair.....

Hon. Robert Mbatia: Mr. Speaker, I do respect.....

Hon. Temporary Deputy Speaker: Please Hon. Member, you cannot say that they don't understand?

Hon. Robert Mbatia: I respect their decision Mr. Speaker, the amendments were defeated but the problem was Members did not have time to ventilate on them. I only leant of those amendments when I walked in to this House. So Mr. Speaker, I seek your indulgence on that, thank you Mr. Speaker.


Hon. Temporary Deputy Speaker: Yes Hon. Maggie!

Hon. Margaret Sewe (Nominated Member): Mr. Speaker sir, I would wish to have your ear. I am neither a saucer nor am I a prophet of doom but if the owner of the Motion feel that we should take into cognizance the feeling and the mood of the House I think it is very important that we listen to him and I want to support our able Deputy Speaker and Hon. Nyangala.

Mr. Speaker there is no point of doing this because we can straight away see that it is going to fail and I don't think that we would like to go on that direction. The document is not bad but the mood and the sensitivity of the document would also be a factor to consider even as we want to say nay or yes.

So Mr. Speaker, I know you have a lot of Solomonian wisdom. Please read the mood of the House and bring it [Motion] again and we will pass it. We are the Members but let us interrogate it further. Thank you.

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Hon. Temporary Deputy Speaker: Hon. Members, I now give direction as per the Standing Order number 50 (3) that this particular Motion be deferred until the next sitting.

(Applause)

Clerk can we proceed!

PROCEDURAL MOTION

THE ASSEMBLY RESOLUTION TO ADJOURN UNTIL 28TH MARCH 2017

Hon. Temporary Deputy Speaker: Hon. Chief Whip.

Hon. Majority Chief Whip (Mr. Jaffar Kassam): Thank you Mr. Speaker sir, I wish to move the following procedural Motion that, notwithstanding the Calendar of the Assembly adopted on 7th March, 2017, this Assembly resolves to adjourn until Tuesday, 28th March, 2017. Thank you Mr. Speaker sir. I would request Hon. Chairman Mbatia to second this Motion.

(Loud Consultation)

Hon. Robert Mbatia: Mr. Speaker, I rise to second the Motion and from words of Hon Abuka that from the mood of the House we need some rest, I rise to support and considering the business that the Members of the Assembly would be conducting during the break. Mr. Speaker...

Hon. Temporary Deputy Speaker: Hon. Mbatia can you second this particular Motion! Can you second? Thank you very much.

(Question proposed)

Hon. Jacqueline Nyangala: Thank you Mr. Speaker, looking at the mood of the House and since we have already adopted this calendar I don't think any Member here has any issue with it. Can you call the mover to reply?

Hon. Temporary Deputy Speaker: Hon. Leader of Majority Chief Whip?

Hon. Majority Chief Whip: Thank you Hon. Speaker and I wish to thank the Members for coming up and giving us the necessary number required for the quorum and supporting the Motion thank you very much.

(Question put and agreed to)

ADJOURNMENT

Hon. Temporary Deputy Speaker: This Assembly now adjourns until 28th of March, 2017.

(The House rose at 4.45 p.m.)