



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fifth Session

Tuesday 28th March, 2017

The House met at 2.30 p.m.

(Hon Speaker (Mr. Alex Ole Magelo.) in the chair)

PRAYERS

Hon. Speaker: Serjeant -At- Arm can you please ring the bell for 10 minutes.

(Quorum bell was rang for 10 minutes)

Hon. Speaker: Hon. Members there is quorum so we can proceed! Welcome Hon. Ochar!

PAPERS

NAIROBI COUNTY PUBLIC SERVICE BOARD ANNUAL REPORT FOR 2015/2016

Hon. Chief Whip of Majority (Mr. Jaffer Kassam): Thank you, Mr. Speaker sir, pursuant to section 59 (1) (d) of the County Government Act, 2012, I would like to lay the following paper on the table of the Assembly today 28th March, 2017 the Nairobi County Public Service Board annual report for 2015/2016. Thank you, Mr. Speaker.

Hon. Speaker: Order Members, the telephone please!

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BILLS

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2017 (ASSEMBLY BILL NO. 5 OF 2017)

(First Reading)

A Bill for an Act of County Assembly of Nairobi City to authorize the issue of a sum of money out of the County Revenue Fund and its application towards the service of the year ending 30th June, 2017 and to appropriate sum and a sum voted on account by the Nairobi City County Assembly for certain public services and purposes.

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2017 (ASSEMBLY BILL NO. 5 OF 2017)

(Second Reading)

Hon. Speaker: Hon. Members, the Chairperson for Budget and Appropriation Committee is not in. I would like a Member to move the second reading of the Bill. Is there any Member of the Budget? The Hon. Vice Chairperson of the Budget and Appropriation Committee!

Hon. Member for Hospital Ward (Mr. George Ochola): Thank you, Mr. Speaker sir, I wish to beg your directives that as the Budget Committee, we are not ready to commence with No.9 and 10 and therefore I request that we do it on Tuesday next week.

Hon. Speaker: Very well Deputy Chair of Budget and Appropriation. Let that item appear on the Order Paper next week Tuesday. Proceed please. I therefore now direct that we read order number 11.

THE NAIROBI CITY COUNTY INSPECTORATE SERVICES BILL 2017; ASSEMBLY BILL NUMBER ONE

(Second reading)

Hon. Majority Chief Whip. Thank you Mr. Speaker sir. Hon. Speaker, I beg to move the Nairobi City County Inspectorate Services Bill 2017, 1 of 2017 to be read a second time. The principle object of the Bill is provided for in the establishment and administration of Nairobi City County Inspectorate Service. The Bill also provides for the functions, powers and organization of the Inspectorate so as to give effect to the provisions of article 185-187, and 189 (1b) which requires the County Executive Committee to implement County legislation and National legislation within the County. The Bill gives effect to article 185 (2) of the Constitution of Kenya 2010 on inspection mechanism so as to ensure effective performance and exercise of powers conferred on the County Government under part two of the Fourth Schedule of the Constitution. As such the Committee fully supports the Bill since it seeks to address these issues. However the Bill requires fine tuning through proposed amendments so that it can serve the intended purpose. In summary, the Bill addressed the following amongst others;

1. It will ensure implementation of policies and operational direction of the Inspectorate
2. Recommend establishment of centers and places of training for officers joining the Inspectorate and other officers
3. Determine the establishment and maintenance of Inspectorate posts, outpost units, or unit basis in the County and determine the boundaries of the Inspectorate output or the unit basis
4. Determine distribution and deployment of officers in the Inspectorate
5. Promote cooperation with the National Police Service and other National agencies
6. Issue and document Inspectorate Standing Orders

Hon. Speaker, pursuant to article 196 (b) of the Constitution of Kenya and Standing Order 121 (3). The Committee placed an article in the local dailies calling on representation and amendments from the public on the Bill. The Committee also did a written request for submission to the following stakeholders;

1. County Chief Officers in charge of Security, Compliance and Disaster Management
2. County Public Service Board
3. Inspector General of Police
4. Chief Executive Officer Kenya Law Reforms
5. Nairobi kiambuthia small scale business group in Nairobi CBD
6. Bus station self-help group- registered hawkers organization
7. Kenya National Commission on Human Rights
8. Nairobi Central Business District

Following the notice Mr. Speaker sir, the Committee received written memoranda from the following stakeholders

1. County Chief Officers in charge of Security, Compliance and Disaster Management
2. Chief Executive Officer Kenya Law Reforms Commission

All the stakeholders were agreeable in principle with the Bill although they proposed certain amendments to certain clauses. Mr. Speaker sir, the Committee will propose amendments to the Bill. Clause 1, 2, 3, 4, 5, 6, 7, 8, 17, 18, 19, 22, 23, 24, 29, 30, 32, and 33. Some of the amendments are editorial while others are to cater for the concerns of the stakeholders. I beg to move and call upon Hon. Hashim Kamau to second. Thank you.

Hon. Minority Chief Whip: Mr. Speaker I stand to second the Motion.

(Question proposed)

Hon. Speaker: Can I call the mover of the Motion to reply?

Hon. Jaffar Kassam: Thank you Mr. Speaker sir, and all the Hon. Members for supporting this Bill which sets out a framework on the issue of *Kanjo Kingdom* and the rest and we expect this Bill to take care of those improprieties which has been taking place. With that, I thank the Members. Thank you Mr. Speaker sir.

(Question put and agreed to)



Hon. Speaker: Motion number 12?

MOTION

Hon. Speaker: Hon. Members, this Motion was just left for the Speaker to put the question. Yes, Hon. Hashim Kamau?

Hon. Member for California Ward (Mr. Hashim Kamau): Thank you Mr. Speaker. I am standing under Standing Order no. 50. That the Speaker may, on the request of a Member defer putting the question to a later date.

Mr. Speaker, it has been brought to my attention about the integrity of that Committee. That there was something that went on. So, it is my opinion that you defer putting the question until later because I have brought that issue to the leadership of the Assembly. That you defer and then we have a sitting of the leadership because of the integrity of that committee which has been brought to my attention. Thank you.

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Thank you Mr. Speaker. This is a House of rules and regulations. Mr. Speaker, when a Committee has an integrity issue and it has reached the ears of a senior Member of this House, he should have told us what kind of integrity because when he is going to investigate, we should know what is being investigated about a Committee. So, before the orders are given, the Member should have tell us exactly what is going to be investigated so that when he is reporting to the House, the Members can nod to the investigation. But if it is just a blanket, then some Members maybe using that as ---

Hon. Speaker: Very well Hon. Ochar. I understand you.

Hon. Maxwell Ochar: Thank you Mr. Speaker.

Hon. Speaker: Hon. Hashim Kamau, Hon. Ochar has rightfully said that those words are coming from a senior Member of this Assembly. You being the Chief Whip of the Minority, you may know more than what we don't know. I know there have been petitions here about the Committee before me but, as usual, this is a House of rules and regulations. On the onset, the Member is right to ask the Speaker not to put the question but I again override that as Hon. Ochar has just asked. What are these integrity issues? These Hon. Members would also like to chip in or to hear exactly what it is. This is the 3rd time I am told by the Clerk that this has been going on and on. So, I can make my ruling.

Hon. Hashim Kamau: Thank you Mr. Speaker. Actually we don't want something to go into the HANSARD before we establish the true position of the information that we got. Mr. Speaker, secondly, you have called the Committee of PAC, the Chairman and Mr. Gare to come to your office tomorrow so that you can establish the true position of what transpired in Mombasa. So, Mr. Speaker, Members should wait until maybe tomorrow afternoon we establish what happened. Whether it is true or not. So that we can go ahead. Even the credibility of the report is now under the same integrity.

Hon. Member for Korogocho Ward (Mr. Maxwell Ochar): Mr. Speaker when a Hon. Member of Hon. Hashim status can say that he doesn't want something to go to our gadgets and already he has said there is an integrity issue, Mr. Speaker integrity is a blanket statement. Already he has told us there is something fishy happening so we want the gadget again to capture what we are talking about when he has brought the report that this Committee is clean or they are dirty because already we knew there is some fishy things, dirty things and that is the reason why Mr. Speaker you have been asked not to put the question. So Mr. Speaker we should be told because this is a House of rules and we are representing Nairobians, we should know what really transpired in Mombasa and that is my request.

Hon. Speaker: Hon. Members I want to thank you for your contribution. Order Hon. Members.
Hon. Elkana

Hon. Member for Kwa Reuben Ward (Mr. Elkana Mauti): Mr. Speaker I thank you this moment because it is the first time I have heard the Chief Whip from Minority side is questioning. We would like to know whether his questioning is about the Committee or about the Bill. Secondly the Majority Leader and the Majority Chief Whip are members. We would like to know if the integrity issue is about the Members or about the Bill. Is going to a retreat with the Executive to discuss the Bill a problem? I can even recall that this is the Bill that is going to allow the employment of the Inspectorates. If Hon. Hashim Kamau don't want Nairobi County to employ...

Hon. Speaker: Order Hon. Elkana, we are on item 12 but you are on 11

Hon. Elkana Mauti: It is about the comment that Hon. Hashim Kamau has made, I don't know if it is about the Public Accounts Committee?

Hon. Speaker: No, it is order 12. It is about Motion on Public Accounts Committee

Hon. Elkana Mauti: I can even comment on it. The last time we deferred the question and it was because of so many issues which were supposed to be discussed before anything else. We don't want people to be coerced by Hon. Members so this is the extension of our Assembly. Mr. Speaker we said before we handle this we should have a *Kamkunji* sitting to discuss more about this because this was something which was for a long time, it was tabled, taken to court and it has been revived. Two, the intention was not good that was why we deferred the Motion, so we have not even discussed it and elaborated the intentions. It is unfortunate that we find ourselves again before the Motion is concluded. This is wrong. So let it be deferred.

Hon. Speaker: The last one, Hon. Gari then we proceed.

Hon. Member for Nairobi West Ward (Mr. Maurice Gari): Thank you Mr. Speaker sir, the Minority Whip has just questioned the integrity of a Committee and he has brought it in front of you. A Committee is an extension of this House and with your wisdom you cannot rely on rumours; you have powers to summon the Committee to interrogate with the Liaison Committee which you are a member and see what transpired or what happened because Mr. Speaker someone who was not in the Committee cannot come with a

rumour in the House and he cannot substantiate the truth of the matter. Even you Mr. Speaker I cannot just stand here and accuse you of malice. With your wisdom I request you to call the Committee and interrogate. We didn't fight as a Committee so I don't understand what the Whip is talking maybe he has a reason so am begging you to call the Committee and Liaison Committee so that the issue is addressed before you communicate to the House. Thank you.

Hon. Member for Kangemi Ward (Mr. Peter Isuha): Thank you Mr. Speaker, I want to support what Hon. Hashim has said concerning the report being postponed until we discuss the same. When you go through the report again you find that even the Committee itself is in agreement that money was spent at source but have not indicated how much was spent at source in this report. When you go to the composition of Committee members you find that the senior most members of this Committee are from the Government side – Hon. Daniel Mutiso did not sign the report. We have the deputy Majority Leader who is also member of this Committee also did not sign the report. So I support what Hon. Hashim has said.

Hon. Speaker: Well, Hon. Members. We are not debating the Motion, so I will just give Hon. Ochola and then we proceed.

Hon. Member for Hospital Ward (Mr. George Ochola): Thank you Mr. Speaker. I agree we are not debating but we are raising our concern. Mr. Speaker even if I don't pass by what other Hon. Members have said, I think if you follow Hon. Elkana Mauti was speaking about, he went astray but when he realized he was put on the right track. You heard him very clearly dispensing on this kind of Motion saying that we did not agree. Mr. Speaker a lot is entailed in this report and as we say that this is a House of rules and regulations. Mr. Speaker I think it is a House of regulations also to restore sanity within the Nairobi City County and this House Mr. Speaker.

Mr. Speaker I won't sit down and pass a report that purport and support what the Comptroller of Budget said that he money was spent at source. When I asked about the figure which was spent at source, Mr. Speaker there was no answer and we were in agreement even with the Chairman of PAC that this is a good question let it be deferred and it was deferred with my amendments. I was shocked today if my amendments are not here Mr. Speaker. Because we wanted to know and ascertain how much was spent at source and as I speak today Mr. Speaker, I have investigated and the amount spent at source was 8.4 billion. Mr. Speaker we won't allow this to go on, until we interrogate the 8.4 billion and the culprits.

(Applause)

Hon. Speaker: Very well as I said we are not discussing and debating the issue. Hon. Members I have just informed Hon. Ochola that the amendment was defeated which is very sad. Now Hon. Members-----

No Hon. Member I will give you on Thursday the whole day to do it.

Hon. George Ochola: I want to suggest ---

Hon. Speaker: Oh yes. Hon. Members as Hon. Ochar stated earlier on that this is a House of rules and regulations. Hon. Members, there is question that I want to put to you, as Ochar said the Nairobians are watching you. When the Controller of Budget has said 8.4 billion is missing, and you as the watchdog you hide it under the carpet, it is wrong. Therefore I want to make this ruling, that this item appears on the Order Paper on Thursday 2.30 p.m. and tomorrow the leadership of this Assembly including Chairmen meet and iron out this before we meet again to tackle this report on Thursday. I won't mind giving the whole afternoon, but we must come to some kind of sanity. And if not then the Committee can as well pack and we have other members to do the Committee work.

But do not put the Nairobi County Assembly into that kind of situation. I am aware I got a Petition from a civilian. However, that is my ruling that on Thursday 2.30 p.m. the item appears on the Order Paper and tomorrow at 11.00 o'clock I have the leadership and Hon. Ochar because the Chief Whip has left and the Chairman of the Liaison Committee, Hon. Ken Ng'odi should bring his troops because this is the work of Chairmen to tell us exactly why there is a problem before we come on Thursday to do other things beneficial to the County. I thank you.

(Applause)

Hon. Speaker: Order No. 13. Hon. Members sorry, there was an omission when we finalized the Nairobi City County Inspectorate Service Bill, the Clerk did not read it. Therefore I will allow her to do that, thank you.

A BILL FOR AN ACT OF THE NAIROBI CITY COUNTY ASSEMBLY TO ESTABLISH THE NAIROBI CITY COUNTY INSPECTORATE SERVICES AND PROVIDE FOR ITS ORGANISATION, FUNCTIONS AND POWERS AND FOR CONNECTED PURPOSES

(Second reading)

MOTION

ADOPTION OF THE REPORT OF THE SECTORAL COMMITTEE ON CHILDREN, EARLY CHILDHOOD, EDUCATION AND VOCATIONAL TRAINING ON THE STATUS OF EARLY CHILDHOOD EDUCATIONAL CENTRES AT KOMAROCK AND NJIRU PRIMARY SCHOOLS OF NAIROBI CITY COUNTY

Hon. Speaker: The Chairperson of the Sectoral Committee on Early Childhood, Education and Vocational Training, Hon. Alexina Mudi.

Hon. Alexina Mudi (Nominated Member): Thank you Mr. Speaker sir. I beg to move a Motion that; this Assembly adopts the report of the Sectoral Committee on Children, Early Childhood, Education and Vocational Training on the status of Early Childhood Educational Centres at Komarock and Njiru primary schools of Nairobi City County laid on the table of the Assembly on Thursday 16th February. Mr. Speaker sir, the Committee visited the ECD Centres at Komarock and Njiru Primary Schools on 31st March 2016, the

site visit one was at Njiru primary school ECD Centre. Mr. Speaker sir, the Committee observed the following at Njiru Primary School ECD Centre:

- i) There was no contractor on the ground;
- ii) The foundation to the construction has begun, however, it was observed as being very weak, the head Teacher reported that the structures were not watered well hence compromising the quality and firmness of the foundation;
- iii) The initial site of the construction which was located at the end of the school playground was altered. The Committee observed that the current site of construction was very close to the primary school pre-unit classes. The Committee therefore informed the head Teacher that since the construction of the ECD Centre is part of the mandate of the County government, the ECD classes should be constructed a little further from the primary school classes that children need space where they could play without any interference from the primary school pupils. The School Principal was further informed that the management and resources of the ECD Centres must be independent from the primary schools;
- iv) There were 34 children and two teachers in pre-unit and nursery; and
- v) The school had shortage of piped water.

SITE VISIT AT KOMAROCK PRIMARY SCHOOL ECD CENTER

COMMITTEE OBSERVATIONS

The following were the observations made by the Committee;-

- i. The container classes were still under construction. The Committee observed that the project was not in final stages and that it would take some time before it would be completed.
- ii. The Committee found that containers were for four classes.
- iii. The Committee observed that the doors were facing the primary school instead of facing the current ECD Centers. The Field Manager explained that the County Architect gave the direction of where the doors should be facing. The Committee reasoned that the doors should not be facing the primary school because the project of the ECD Centers should be an independent organ from the Primary school which is a function of the National Government.
- iv. The Containers were of substandard quality. The Containers were found to be rusty and the Committee opined that the County must get value for its money. However the Field Manager differed with Committee and said the containers were new.
- v. Some larger containers were put on smaller containers posing great danger to users. However the Field Manager clarified that they would revisit the layout by putting the larger containers below the smaller ones.
- vi. The Field Manager reported that there were no plans of installing electricity in the ECD Project. The Committee however opined the need to have electricity in the ECD container classes in order to cater for smooth learning in the event computer laptops would be issued by the National Government.

- vii. Generally the Committee observed poor workmanship and that the welfare of children was not taken care of.

THE COMMITTEE RECOMMENDATIONS

Mr. Speaker sir, following the fact finding visit by the Committee to Njiru and Komarock Primary School ECD Centers, the Committee urges that, this Assembly do resolve as follows;

- i. No fabrication of the container classes should be done in the schools. The Committee recommends that fully equipped container classes be provided to the schools.
- ii. Weak pillars or foundations should be redone to enhance safety of the children and all users.
- iii. The right location for the ECD Centers must be agreed upon by all stakeholders
- iv. The cost of the project should be relooked at as what is presently on the ground does not reflect the value for money
- v. That the project be halted till such a time when all the stakeholders have a meeting to agree on factors such as location of the project, designs and quality of the containers as well as provision of social amenities such as clean water and electricity.

Mr. Speaker, I call upon Hon. Elizabeth Sang to second the Motion. Thank you.

Hon. Elizabeth Sang (Nominated Member): Thank you, Mr. Speaker sir. I stand to second the Motion, thank you.

(Question proposed)

Hon. Speaker: I call upon the mover of the Motion to reply.

Hon. Alexina Mudi: Once again, thank you, Mr. Speaker sir for giving me the opportunity. I am greatly humbled by the Hon. Members of this House and the leaders of Nairobi City County to at least take it at one touch with understanding that all these have to take place for the sake of our children especially us being the parents of the City. God bless you all. Thank you.

Hon. Speaker: Thank you, Hon. Alexina Mudi. Order, Hon. Members! Put off the telephones.

(Question put and agreed to)

Hon. Speaker: Hon. Members, the Assembly is adjourned until 2:30 p.m.

The House Business Committee shall meet at the rise of the Assembly at our normal ground floor meeting room. Thank you.

(The House rose at 3:45 p.m.)