



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Fifth Session

Wednesday 8<sup>th</sup> March, 2017

The House met at 2.30 p.m.

(Hon. Temporary Deputy Speaker Mr. Maurice Akuk on the Chair)

#### PRAYERS

**Hon. Temporary Deputy Speaker:** Hon. Members, it has been brought to my attention by the Clerk that we lack quorum, so, I will order the Serjeant-at-Arms to ring the bell for the next ten minutes. Thank you. Serjeant-at-Arms, could you lock the door, please, we should not have any movement outside.

*(Quorum bell rung for ten minutes)*

Hon. Members, it has been brought to my attention again that we still lack quorum, therefore, I will ask the Serjeant-at-Arms to try to bring in some Members out there and in the lounge so that we may proceed. I kindly ask the Serjeant-at-Arms to ring the bell for another five minutes.

*(Quorum bell rung for five minutes)*

Hon. Hashim Kamau, I kindly ask you to ask your Members to come in and the Majority Whip out there.



Serjeant-at-Arms, you can now stop ringing the bell, we now have the quorum. Clerk, we may proceed.

## STATEMENTS

### RESPONSE TO A STATEMENT REGARDING ASSIGNMENT OF EQUITY LOAN OF KSHS. 5 BILLION TO KENYA COMMERCIAL BANK

**Hon. Temporary Deputy Speaker:** Under Order No. 7, the following responses are due today; the Chairperson of the Select Committee on Budget and Appropriations. Hon. Michael Ogada is in? You are taking that on his behalf? Thank you.

**Hon. Member for Woodley/ Kenyatta Golf Course (Mr. Njoroge Kairu):** Thank you, Mr. Speaker sir. I have responses for two Statements here; one was asked by Hon. Mulatya. He is there, we have the answers. We have given him the document and he has perused it. He has some few issues.

Hon. Speaker, on Tuesday, 26<sup>th</sup> July 2016, the Hon. Alexander Mulatya, MCA, rose on the floor of the Assembly pursuant to Standing Order 41 (2) (c), and requested the Chairperson of Select Committee on Finance, Budget and Appropriations for response to a Statement regarding assignment of Equity loan of Kshs. 5 billion to Kenya Commercial Bank. In the Statement, the Member requested the Chairperson to inquire into and respond on:

- i. Status of the loan and clarify on how it was bought by Kenya Commercial Bank;
- ii. Provide documents from the County Executive Procurement Department to show whether the procurement procedures were followed and contract documents of the above; and
- iii. Measures been taken by the County Executive to ensure that the procurement procedures are not flouted to enhance accountability and transparency.

Mr. Speaker sir, the Committee wrote to the County Treasury to seek for answers on the issues raised and even invited County Executive Committee Member for Finance to deliberate further on the gray areas. The Committee interrogated the response and noted that it was satisfactory for presentation to this honorable Assembly. In this regard, I wish to report to the Assembly as follows;

1. Status of the loan and how it was bought---

**Hon. Temporary Deputy Speaker:** Hon. Njoroge, this is a very long Statement and reading it through will take too much time. We kindly ask Hon. Mulatya to at least let us know if he is satisfied and if it is not satisfactorily answered, he should give us his view. Thank you.

**Hon. Member for Kwa Njenga Ward (Mr. Alex Mulatya):** Thank you, Mr. Speaker sir. As per the response by the Chairman for Budget and Appropriation, I disagree with it. The reason is that the loan was totaling to about Kshs. 3.3 billion and the procurement procedure was not properly done. There is no

documentation for the loan to be directed to a different bank. And in fact it should not be a single sourcing. In procurement regulation, there is a threshold of about Kshs.100 million and this was about 3.3 billion Kenya shillings. So, since there is a threshold of about Kshs.100 million, this could have been an open tender for this to be done as per the law.

**Hon. Temporary Deputy Speaker:** Hon. Alexandar Mulatya, please have your seat. Are you aware that this is a financial process and does not require a procurement process?

**Hon. Alex Mulatya:** Thank you, Mr. Speaker sir. This was not a loan being requested for. This was an already existing loan which was supposed to be paid back by the County Government. Equity Bank requested the amount to be paid back, this was not a loan acquisition. This loan has been there before. So, this was about the loan being given to another bank to repay so that Equity Bank stops requesting for the payments.

**Hon. Temporary Deputy Speaker:** Have you gone through the documents?

**Hon. Alex Mulatya:** Very well.

**Hon. Temporary Deputy Speaker:** I would like to draw your attention to number 3 (ii) after the figures. I believe the Budget Committee has discussed this with him. If you are not satisfied, I kindly request you to at least pay a visit to this Committee again. I request you to read this document and visit the Committee in the shortest possible time and the Committee will get back to the plenary to advise us on the way forward. Thank you.

**Hon. Alex Mulatya:** Thank you, Mr. Speaker.

**Hon. Njoroge Kairu:** Thank you, Mr. Speaker sir. There was another Statement requested by Hon. Manoah Mbuku. We have served him with the Statement; he read it and told the committee that he has totally agreed with the report.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Njoroge. Hon. Manoah, are you satisfied?

**Hon. Member for Nairobi South Ward (Mr. Manoah Mbuku):** Mr. Speaker, can you ask Hon. Njoroge to stop lying to this House. We have not sat with the Committee at all. I have just been served with this response while I am here and I am ready to respond to it.

Mr. Speaker, what the Budget Committee has brought to this House is pure lie. I don't know if you have it. If you look at response number 2, where I asked status of money allocated for free maternity services in the County, this is their response: That during the financial year 2015/16, Kshs. 233 million was received by the County Treasury as follows, and they have indicated how that money was received. One bunch was received in November, another in December, May and in July 2015. And then they are saying that Ksh.107 million was used to settle accumulated debts owed by KEMSA. Mr. Speaker, free maternity money is a National grant that is not supposed to be diverted at all. Why was this money diverted to pay

KEMSA? Mr. Speaker, they continue to say here that KShs 32 million was dispersed to the County hospitals during the 3<sup>rd</sup> quarter of 2015/16 year. The rest of the funds, that is Kshs. 50 million, and Kshs. 42 million are in payment process to enable disbursement.

Mr. Speaker, they are talking about 2015 and they say they are in the process of disbursing this money but up to now, no money has been send to our facilities yet the National Government continues giving money to this County in aid for free maternity services. What the Budget Committee has tabled in this House is pure lies and they should go back and bring conclusive report to this Assembly. Mr. Speaker, in their report they should state how much each facility has received and when that money was received. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Members, we will give Hon. Njoroge Kairu to respond on that.

**Hon. Njoroge Kairu:** Thank you very much, Mr. Speaker. I have heard what the Hon. Member is saying and I also understand that he is the Chairperson of the Committee. What I would like to let this House know is that no mother has ever been chased away from a maternity hospice. They are treated, served and they are okay. Mr. Speaker, what happens in these maternities is that when these mothers come to our clinics they are served---

**Hon. Petronilla Achieng** (Nominated Member): Point of Order.

**Hon. Temporary Deputy Speaker:** There is a Point of Order.

**Hon. Petronilla Achieng:** Thank you. Mr. Speaker sir, it is sometimes very unfortunate when we listen to what is being reported in this House. When the Hon. Member does not reply to the Statement and then says that no mother has ever been turned away yet we know this is what happens because we are paying the bills for these mothers who have been turned away. They cannot be treated because first of all, there are no doctors and secondly, there is no medicine. That is a very big lie. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Chege Ngaruiya.

**Hon. Member for Kahawa West Ward** (Mr. Ngaruiya Chege): Thank you, Mr. Speaker for giving me this opportunity. Mr. Speaker, it is like we are in a circus here. Here is a Chairperson who has failed to oversight his department and then he himself does not take the responsibility to request a Statement. Mr. Speaker, I think he should not have been allowed to request that Statement in the first place because everything lies with him. Why is he blaming the Budget and Appropriation Committee?

**Hon. Temporary Deputy Speaker:** Hon. Ochar.

**Hon. Member for Korogocho Ward** (Mr. Maxwell Ochar): Thank you, Mr. Speaker. Mr. Speaker, I think it is wrong for the Deputy Minority Leader to mislead this House. Mr. Speaker, according to the records of this Assembly, the most active Committee and the Committee which has brought up a lot of

statements in this Assembly is the Committee of Health. Mr. Speaker, he is the leader of that Committee and the one who requested for a Statement in another Committee. He cannot go and sit in that Committee before that Committee calls him.

Mr. Speaker, they are now misleading the Assembly by bringing fake report and that is what the questionnaire is asking. The Deputy Minority Leader is telling us that he is not supposed to ask that question and I think he is wrong. Having said that, I can forgive him because he is on the other side and we do not know how it expounds to this meeting. Thank you, Mr. Speaker.

Hon. Temporary Speaker: Hon. Ochar, thank you for forgiving him. Hon. Immaculate.

**Hon. Immaculate Musya** (Nominated Member): Thank you, Mr. Speaker. Deputy Minority, you are misleading this House. Being a Hon. Member in this Assembly and being a Chair of a Committee does not ban you from requesting a Statement. When it comes to the issues of money, everybody has a mandate to know because here we are coming to represent the people and we are supposed to know what is happening with the monies that are collected in this County Assembly. So, kindly, Hon. Member, apologize to the Member. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Hon. Thuo.

**Hon. Member for Dandora Area III** (Mr. Charles Thuo): Thank you, Mr. Speaker. I am a Member of the Health Committee and I know what we have gone through as a Committee in trying to make sure that the facilities are funded and have all the equipment they need to serve the people of Nairobi. It is sad, Mr. Speaker when Members of this Assembly who were given duty by the Constitution to safe guard the life of Nairobians, try and defend the Executive. It is a very sad day today in this Assembly.

Mr. Speaker, the Department of Health is not in-charge of money in this County, the Chief Officer of Health and the CEC Member for Health do not receive any money that comes from Treasury for whatever reason. The free maternity money, as my Chairperson said, is a grant but it is not only a grant, it is a conditional grant. What I meant is that it is a grant that comes with a condition and it should not be used for any other purpose. If anybody uses that money for any other reason expect that which is meant to make the services of the maternity in Nairobi better, then there is no crime has been committed, Mr. Speaker sir. This is not a small issue, I am afraid of the consequences if Members are going to trivialize this issue. If we are going to look at it as a petty issue, it is not.

Mr. Speaker sir, we are talking about millions and millions of money. Some of these facilities are in the remotest part of Nairobi. I don't know if you are aware that through the Committee of Health and Health Department that we have seven new maternities in Nairobi, some of them are in the remotest areas including Mukuru, Njiru and even in my own Ward that is in Dandora next to dumpsite. Those are facilities that need to be funded, equipped and staffed. It is for that reason, Mr. Speaker that I request Budget Committee---

**Hon. Tabitha Juma** (Nominated Member): Thank you, Mr. Speaker for giving me this opportunity to add my voice to this debate. I am a Member of the Committee on Health and we had serious issues in the Committee, that is why we are raising these questions. It is very wrong for a Member who has a Ward in this County and who is a representative of those mothers who are giving birth in these facilities and need that money to help them.

**Hon. Temporary Deputy Speaker:** Hold on, you will proceed. Hon. Member, just have your seat you will proceed on. Hon. Members, the Deputy Speaker of Nairobi City County Assembly is in the House and it is very important that we recognize his presence and he takes over his seat because he is my senior. I cannot sit here when my senior is sitting in the plenary. So, allow me to take my seat back in the plenary, please. Thank you.

Hon. Deputy Speaker, you are my senior and it is not possible for you to sit on the other side and for me to sit on this side so it is the tradition. So, please come and take the seat.

**Hon. Deputy Speaker:** Can you give me the microphone, Thank you, Mr. Speaker and I am actually seated here as an ordinary Member of Kware Ward but not as the Deputy Speaker of Nairobi County Assembly. Thank you for the recognition.

**Hon. Temporary Deputy Speaker:** Hon. Tabitha, you may continue please because the Deputy Speaker has abdicated his duties.

**Hon. Tabitha Juma:** As I was saying, I am a Member of the Health Committee and we have had issues on and off of not just medicine but also the facilities that are in deplorable conditions. Every time money comes, when you go to the Finance Department, they will tell you that they are yet to pay some debts with the money that has been availed to the County Hospitals to cater for the mothers who are giving birth.

It is in a very deplorable situation because when you go to these clinics and Hospitals, there are no medicine, no gloves, there is just nothing. We would really like the Committee of Finance and Budget to follow up and tell us where this money has gone to, why it is not been channeled to the right Department or right channel that they are supposed to be channeled so that they can help the ordinary *mwanainchi* who cannot pay for private hospitals. Thank you, Mr. Speaker.

**Hon. Jacqueline Nyangala** (Nominated Member): Thank you Mr. Speaker, I want to add my voice to the free maternity. I stand to be corrected, the Budget Committee Chairman could tell us about the misappropriation of the money that was coming to the County Government for the maternity. The National Government withdrew this and I guess was taken to NHIF. If it has not been implemented, where was the money going to? Thank you.

**Hon. Temporary Deputy Speaker:** Thank you, Hon. Members for contributing to this debate. I would kindly direct the Budget Committee to sit down again with the Hon. Member to understand fully what his Statement was all about and let us have an answer by Tuesday next week. Clerk, lets proceed.

## BILLS

THE NAIROBI CITY COUNTY CULTURAL HERITAGE BILL 2017, ASSEMBLY BILL 1 OF 2017

A BILL FOR AN ACT OF COUNTY ASSEMBLY OF NAIROBI CIY TO PROMOTE AND PROTECT CULTURE AND CULTURAL HERITAGE IN THE COUNTY AND FOR CONNECTED PURPOSES

(First reading)

THE NAIROBI CITY COUNTY PUBLIC ROAD TRANSPORT AND TRAFFIC MANAGEMENT BILL 2017, ASSEMBLY BILL 2 OF 2017

A BILL FOR AN ACT OF COUNTY ASSEMBLY OF NAIROBI CITY TO ESTABLISH AND PROVIDE FOR MATTERS RELATING TO COUNTY ROADS, STREET LIGHTING, TRAFFIC AND PARKING, PUBLIC ROAD TRANSPORT AND CREATION AND COMPETENCES OF PUBLIC ROAD TRANSPORT AND MANAGEMENT BOARD AND COUNTY TRAFFIC MARSHALLS

(First reading)

THE NAIROBI CITY COUNTY TOBACCO CONTROL BILL 2017, ASSEMBLY BILL 3 OF 2017

A BILL FOR AN ACT OF CITY COUNTY ASSEMBLY OF NAIROBI TO PROVIDE MEASURES ADDITIONAL TO THOSE IN THE NATIONAL LAW FOR THE CONTROL OF THE SAME LABELLING, ADVERTISING AND PROMOTION OF TOBACCO PRODUCTS TO PROVIDE FOR THE CONTROL OF POLLUTION AND CONSERVATION OF ENVIRONMENT WITHIN THE PRECINCTS OF NAIROBI CITY COUNTY, PURSUANT TO PART OF THE FOURTH SCHEDULE TO THE CONSTITUTION AND FOR CONNECTED PURPOSES

(First reading)

THE NAIROBI CITY COUNTY EARLY CHILDHOOD EDUCATION BILL 2017, ASSEMBLY BILL 4 OF 2017

A BILL FOR AN ACT OF COUNTY ASSEMBLY OF NAIROBI CITY TO PROVIDE FOR EARLY CHILDHOOD EDUCATION IN NAIROBI CITY COUNTY AND FOR OTHER CONNECTED PURPOSES

(First reading)

## MOTION

**INVESTIGATION OF THE COUNTY HEALTH WORKERS ISSUE AND INTERDICTION OF 6 OFFICERS FROM THE INSPECTORATE DEPARTMENT**

**Hon. Temporary Deputy Speaker:** Hon. Members, in Order No. 12, there was interruption of debate yesterday and Hon. Peter Wanyoike was on the floor moving the Motion. Is he in today?

**Hon. Member for Dandora Area I Ward** (Mr. Peter Wanyoike): Thank you, Mr. Speaker. I wish to move the Motion THAT this Assembly adopts the report of Sectoral Committee on Labour and Social Welfare on the investigation of the County Health Workers issue, interdiction of 6 officers from the inspectorate department and Mr. Bernard Muyu Muli, termination from duty. Mr. Speaker, I call upon Hon. Manyala to second.

**Hon. Member for Kayole South Ward** (Ms. Elizabeth Manyala): I rise to second. Thank you, Mr. Speaker.

*(Question proposed)*

**Hon. Temporary Deputy Speaker:** Hon. Member for Karen Ward. Switch off your microphone then. Hon. Pius K'Otieno.

**Hon. Member for Sarang'ombe Ward** (Mr. Pius Otieno): Mr. Speaker, some of us do not have our gadgets or the tablets. The mover nor the seconder has neither even gone through the recommendations of this report. We are green, we cannot interact with this report yet we don't even know the recommendations, please, Mr. Speaker.

**Hon. Petronilla Achieng:** Thank you, Mr. Speaker. I had the same opinion that I am hearing of a Motion that we don't have the report. So, I don't know whether we are supposed to contribute or it is only the Labour Committee to contribute. Thank you.

**Hon. Temporary Deputy Speaker:** Hon. Member, with all due respect, we were all provided for with tablets and this particular report was posted by one Wasike. I believe that everyone has the report. I believe it is prudent that you be reading your report from your tablets. No Member wants to debate on this? Nobody has read it?

**Hon. Jackline Nyangala:** Thank you, Mr. Speaker. Sometimes some people don't get the reports, so may be, Hon. Petronilla did not get but the reports are on the tablet.

**Hon. Temporary Deputy Speaker:** Order Member! Hon. Member, I believe that we do not have any debate on this report and the reason is what Hon. for Sarang'ombe did suggest. I am kindly requesting that Members let us defer this Motion till tomorrow, and if you don't have it in your tablets, please we will request the Assembly to provide the hard copies to you tomorrow so that we can finally interrogate this report. Otherwise Members there being no any other ---- What is it Hon. Kamau?

*(Motion deferred)*

**Hon. Chief Whip of the Minority** (Mr. Hashim Kamau): Thank you, Mr. Speaker. You know there is a Standing Order that I learnt about yesterday. Standing Order 28 (1), that you stood under yesterday, Mr. Speaker, I am standing under the same Standing Order before you close to seek leave to move that this

County Assembly do now adjourn to discuss a very important issue on the recruitment of 100 persons per Ward currently going on. The recruitment or giving of the list is Friday or the day after tomorrow---

**Hon. Temporary Deputy Speaker:** Hon. Hashim Kamau, please take your seat and let me remind you of your Standing Orders. Do not stand on a Standing Order that is irrelevant to what you are talking about. Please refer to your Standing order No. 30 and I am aware you will see what it talks about. It is probably what you intend to talk about, Hon. Hashim Kamau. Order No. 28 is absolutely different of course, it is possible at any given time but order No. 30 requires that you give this notice two hours prior to the plenary session and on top of that, Hon. Hashim Kamau, Chief Whip Minority, the Order of the day from your Order Paper has come to an end. So, there is absolutely no need of interrupting anything because there is nothing you are interrupting. So, kindly visit the office of the Speaker tomorrow with your request two hours before the plenary so that we will be able to give you time to discuss that matter of importance to this County Assembly. Thank you.

There being no any other business, Members the Assembly stands adjourned until tomorrow at 2.30 p.m.

**The House rose at 3:20 p.m.**