



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### First County Assembly – Fifth Session

Thursday 9<sup>th</sup> March, 2017

The House met at 2.30 p.m.

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

#### PRAYER

**Hon. Temporary Deputy Speaker** (Mr. Maurice Akuk): Order Members you are in the Plenary! Serjeant-at-Arms please ring the bell for the next ten minutes.

*(Quorum bell was rang)*

**Hon. Temporary Deputy Speaker:** Hon. Members it has been brought to my attention that we have been unable to raise the quorum and we will give the Hon. Members five more minutes at the request of Hon. Kwamboka.

*(Quorum bell was rang)*

**Hon. Temporary Deputy Speaker:** Hon. Members it has been brought to my attention that we have the quorum now and we shall proceed, Clerk please. Let us have order.

#### STATEMENTS

**Hon. Temporary Deputy Speaker:** Hon. Members, there is a malfunction in the system and I will kindly ask you to try and put on your microphone to see if it is functioning. Has anyone tried? There is probably a malfunction of the system. Serjeant-at-Arms could we have this corrected please?



Hon. Members as you wait for the Serjeant-at-Arms to correct the system, is [Hon] Pius Mbono in the House? The following responses to statements are to be given today and we have the Chairperson of the Sectoral Committee of Health Services who will give a response to statement requested by Hon. Pius Mbono. Hon. Chairman, are you in the House? Please proceed.

**Hon. Member for Nairobi South Ward** (Mr. Manoah Mboku): The Hon. Member came to our committee and he has this response and I am sure he doesn't have issues not unless otherwise Mr. Speaker, he is in agreement with this report. Thank you.

**Hon. Temporary Deputy Speaker:** Thank you Hon. Manoah, Hon. Pius Mbono.

**Hon. Member for Zimmerman Ward** (Mr. Pius Mbono): Thank you Mr. Speaker I am comfortable with the report.

**Hon. Temporary Deputy Speaker:** Thank you so much if you are comfortable with the report. We have another response which was asked by me and I am comfortable with it and there is no need of going through it. Thank you.

**Hon. Manoah Mboku:** Mr. Speaker just for the purposes of record, it is you who had requested for this statement and I think you are in agreement with it.

**Hon. Temporary Deputy Speaker:** Yes I am, Hon. Manoah so thank you. There is a statement requested by Hon. Milare from the Chairperson of Planning and Housing regarding the proposed construction plan of the road linking the Eastern By-pass with Kangundo Road in Mihang'o Ward is due for response today. Do we have the Hon. Chairperson for Planning? Any member from the Planning Committee who is aware of this statement? The other statement is by Hon. Erastus Mburu from the Chairperson of the Sectoral Committee on Planning. Any member who is aware of that regarding L.R No. 29082 along Kasarani-Mwiki Road? Other statements due for response are from Hon. Wilson Ochola to the Chairperson of Planning. Are you aware of it? Someone is aware if it? No Member from the Planning Committee here? Another statement from Planning, all these statements six of them are from Planning Committee. Hon. Kinuthia.

**Hon. Member for Kiamaiko Ward** (Mr. James Kinuthia): Thank you, Mr. Speaker. I think next week on Wednesday we will give the comprehensive responses of those statements. Mr. Speaker, are you okay with that?

**Hon. Temporary Deputy Speaker:** Yes, I heard you say next week on Wednesday. Thank you. Hon. Karega what is it? Okay please switch off your mic please. There is a statement that is due for response today from Hon. David Mberia also from the Planning Committee. So let us believe that all the seven will be presented next week on Wednesday. Let's proceed to the next order.

## MOTION

### ADOPTION OF THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE INVESTIGATION OF THE COUNTY HEALTH WORKERS ISSUES, INTERDICTION OF SIX OFFICERS FROM INSPECTORATE DEPARTMENT AND MR. BENARD MULI TERMINATION FROM DUTY

*(Resumption of debate)*

**Hon. Temporary Deputy Speaker:** Hon. Members, we were unable to debate this Motion yesterday or interrogate the report because majority of you indicated that you had not looked at this report and I do believe that you now have access to this report and if you do not have access to the report there should be a hard copy that has been provided to you. Can you confirm that? Do you have the hard copy of this report? So let us proceed, the debate continues. You have not requested for the mic.

**Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala):** Thank you, Mr. Speaker. The Committee on Labour and Social Welfare undertook an investigation on county health workers issues taking into consideration the interdictions of six officers from Inspectorate department and Mr. Bernard Mui Muli termination from duty. Mr. Speaker sir, the committee noted that the plight of county workers was not being adequately addressed. For example, the said Mr. Bernard Muli whose salary was stopped despite reporting to work for 56 months, secondly the issue of the plight of the health workers in the County has not been fully addressed.

**Hon. Temporary Deputy Speaker:** Hon. Manyala Order! It has been brought to my attention that you seconded the Motion yesterday. Is that true?

**Hon. Elizabeth Manyala:** Yes I did but correction Mr. Speaker because you deferred it, so I thought we are starting it afresh.

**Hon. Temporary Deputy Speaker:** Are you seconding the Motion afresh or you are debating on the Motion?

**Hon. Elizabeth Manyala:** I am now debating on it to put the Members in the loop so that they are in the know.

**Hon. Temporary Deputy Speaker:** The procedures will not allow you to debate after seconding. So can we have somebody else to debate? Request the microphone please. Hon. Jackline Nyangala you must request the microphone or you approach the table. Proceed.

**Hon. Jaqueline Nyangala (Nominated Member):** Thank you, Mr. Speaker. I want to think that Hon. Manyala was ambushed to second the motion. She didn't really know what she was seconding if I am correct. If she has substance for the report why don't we let her just debate? Thank you.

**Hon. Temporary Deputy Speaker:** The fact that she seconded the Motion yesterday is on record, so it will not be fair to allow her to debate because of the procedures of the House. Hon. Petronilla, you may proceed.

**Hon. Petronilla Achieng** (Nominated Member): Thank you, Mr. Speaker sir. I have looked at the Committee recommendations. Putting in mind that 64 nurses have not been reinstated on duty, this is a very dangerous trend because who will be treating our people? I feel I want to support this Motion and I would like to see that the recommendations are effected very fast. This should have come as a matter of urgency for us to address it very fast because our hospitals don't have nurses. I didn't know it was due to nurses being suspended. It is very unfortunate and I therefore support this Motion strongly. When the Chairman talked, he did not even tell us exactly why they were suspended. Since they have recommended that they should be brought back for the future of this County and for the health sector, I support this Motion. Thank you, Mr. Speaker.

**Hon. Temporary Deputy Speaker:** Thank you. Hon. Elkanah Mauti.

**Hon. Member for Kwa-Reuben Ward** (Mr. Elkanah Mauti): Thank you, Mr. Speaker; I am here to support the report. I am very much frustrated that right now we don't have nurses in hospitals. People are dying. We are representing these people who are dying. We don't want these nurses to be suspended. To start a fresh recruitment of 64 nurses will be a tedious exercise which will take us to hell. Let them be reinstated back. What the nurses were asking were very pertinent issues, for example, NHIF and house allowances. Why can't they be added allowances like house allowance? What is in the pay slip is 16<sup>th</sup> century allowance. As the Members of this County Assembly, it is the Kenya we want, not the Kenya we are. If life changes, then everything must change

Finally on the Inspectorate Department, we have seen some officers who have been chased away or being interdicted. I am worried because the Committee only relies on the report that the Executive gives them, they have not done any investigations. Sincerely, this is not the way we must go. Can you go and do more investigations because the County Public Service Board might lie because they want to defend themselves. There are some officers who were interdicted without a reason. I would like the Committee of Labour to go and rethink about the Inspectorate officers suspended from duty.

The last Statement says *"the County Public Service Board considered Mr. Bernard Muli, his case and payment of his salary for 56 months."* Sincerely, someone staying out for 56 months and he is a worker who had served in this County for almost 30 years. This is being inhuman. How do you think such officer can survive?

**Hon. Temporary Deputy Speaker:** Hon. Mauti, have you read the report? This employee was employed on March 1988, not 30 years.

**Hon. Elkanah Mauti:** That is my imagination.

**Hon. Temporary Deputy Speaker:** No, we need to read the report and debate on it, do not have imaginations. So, could you withdraw that and proceed.

**Hon. Elkanah Mauti:** I withdraw, but, Mr. Speaker, we have officers who have worked for 30 years. What if he has worked for 30 years and 56 months without pay? If there is discipline, this is beyond discipline. So, the Labour Committee should go back and bring us a recommendable report on these officers.

**Hon. Member for Kilimani Ward (Mr. Moses Ogeto):** Thank you, Mr. Speaker sir, I want to support this report. Looking at the Committee recommendations, especially in Minute 205, it is very unfair not to pay an employee of the County for 56 months. It doesn't make sense. Commitment of good job which has been done should be given an incentive. It is inhuman for somebody to work for whole this period of time and not being given a coin yet he pays for rent and tries to make ends meet. This is a person who has a family. When such recommendations are given by County Public Service Board, we want the Labour Committee to give further directions. Starting from the department which I represent, Mr. Wambugu, who was the Director of Inspectorate, has been given enough leave of almost a year. There are some senior officers including Tom Tinega who was given a leave for 5 months.

Labour Committee should do more investigations because there are some officers who are willing to work for the County but they don't get justice. These people who have been interdicted have never been given a fair hearing yet some may retire in the next one month or two years. It is unconstitutional. We are not saying the County Service Board should not give people leaves, but why should an individual be given more days of leave? Looking also at the recommendation (ii), this is a department which needs a replacement which in any case a director of a certain department has been moved this is a department which controls the Nairobians in this city. Mr. Speaker, this is a department which should not have been left vacant, then somebody is put in an acting position for maybe 6/7months to 1 year. Mr. Speaker, this is positively not fair. Mr. Speaker, we congratulate this Labour Committee and we want you as the Labour Committee to be very sober, there are some officers who are suffering because of the incompetence of the County Public Service Board which also needs to be scrutinized and ensure that such people should be valued. Mr. Speaker, in the first recommendation and as I finish, you cannot interdict 64 nurses!

Mr. Speaker, in the Republic of Kenya it is there in the Constitution that when something is wrong it should be referred to the labour union and this union should defend you. Mr. Speaker, I am very perplexed, like for example what happened the other day when the President was so annoyed when the doctors were trying to negotiate their pay. However, Mr. Speaker, in the same way we do here when we are trying to negotiate a pay rise we usually come together and like these nurses this is why we need to defend them and ensure that they come back, not like the way our President and the Governors did the other day which was so unfortunate. I blame the Labour Committee which is being guided by the governance and let them continue and ensure they look for more officers who are suffering.

For example today morning, Mr. Speaker, I was asked how long I have been in this seat. I have been in this seat in an acting position for 5 years. When am I going to be given an upgrade so that at least I can have a higher salary? I am in a very senior position acting for 5 years, there has been no recommendation to at least be upgraded so that I can at least be given a higher salary. I have been acting for 5 years, this is an injustice Mr. Speaker. Such things should also be noted by the Labour Committee and tabled before this House before we leave for elections and I wish that all the Members who will be contesting to come back and make sure that the system has been overhauled. Thank you Mr. Speaker, I support.

**Hon. Temporary Deputy Speaker:** Hon. Nyangala.

**Hon. Jaqueline Nyangala** (Nominated Member): Thank you, Mr. Speaker. I just want to reiterate what my Hon. Member said during the Committee of Justice. I am very concerned about Mr. Hillary James Wambugu, this Director I think was retiring this year but I stand to be corrected. So I am just wondering if the recommendation of the Human Resource was given to the County Public Service Board. Does it take 9 months to get the recommendations for consideration? This gentleman is probably supposed to have retired already so how does that work? If the Labour Committee can look into this for the people who are retiring this year, they were interdicted and they have already responded to cause letters, so what happens after that? Thank you.

**Hon. Temporary Speaker:** Thank you. Hon. Kairu Njoroge.

**Hon. Member for Woodley/Kenyatta Golf Course** (Mr. David Kairu): Thank you very much, Hon. Speaker for giving me this opportunity. I was not prepared for this Motion before the House but nevertheless allow me to support what the Labour Committee has proposed for these officers be reinstated to their positions so that they keep on serving the Kenyans. However, Mr. Speaker sir, although we have been given that authority to join unions it is important for us to take some precautions because Mr. Speaker, if you look at what is happening right now in this country, look at the doctors. Doctors have been on strike for almost 80 days, how many lives have we lost and what they are negotiating on is something that has been addressed. So, Mr. Speaker, we need our union because they are here to fight for their rights. Let them fight for their rights in a sober manner that will not affect other people and for that reason I support the Committee.

**Hon. Temporary Speaker:** Thank you, Hon. Njoroge. I will now call the Mover of this Motion to reply. Hon. Manyala, having seconded the Motion can you move it again as a member of that Committee.

**Hon. Elizabeth Manyala:** Thank you Mr. Speaker. According to the situation analysis and the vices that have been remitted on these officers, we in the Labour Committee also reaffirm this recommendation and wish to state it here on the floor of the House that the Committee on Labour and

Social Welfare has done investigations on the County Health Worker issues and the interdiction of 6 officers so we are in the loop, from the Inspectorate Department Mr. Wambugu and Mr. Benard Muli on their termination from July. Mr. Speaker, as a Committee we have done our part as we are supposed to and we have noted that the plight of our County workers is not being adequately addressed. For example, if I give a scenario and I take one Mr. Bernard Muli case as an example, he worked for 56 months without pay which is noted here, we have investigated and we have documented it. His salary was stopped erroneously despite reporting to work for those months.

Secondly, the issue of the plight of the health workers has not been fully addressed. It is the mandate of the County government to provide quality health care services to the residents of Nairobi County and as such can show that no resident of the County lacks such resources or services because of the dismissals or suspension of nurses. The Committee noted that the grounds for suspending or dismissing the nurses were not sincere since in some instances the nurses were not served with show cause letters on time thus preventing them from issuing timely responses. Mr. Speaker sir, with this report it will go a long way in addressing the issues affecting County workers. As such, I urge this House to adopt this report because we have actually investigated and we found it to be so and it is very sad that there is indeed a monster within the County Government in terms of County health workers. So transformation leadership in terms of the PSI, public service needs to be addressed adequately without much ado. I wish to ask this House to adopt this report. Thank you, Mr. Speaker.

**Hon. Temporary Speaker:** Thank you Hon. Manyala, I will now put the question.

*(Question put and agreed to)*

## MOTION

### ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON PUBLIC ACCOUNTS ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE NAIROBI CITY COUNTY ASSEMBLY MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2015

**Hon. Member for Embakasi West Ward** (Mr. Robert Mbatia): Thank you Mr. Speaker, I beg to move that this Assembly adopts the report of the Select Committee on Public Accounts on the report of the Auditor General on The Financial Statements of The Nairobi City County Assembly Service Board Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2015, laid on the Table of the Assembly on Wednesday, 1<sup>st</sup> March, 2017.

Mr. Speaker, the Committee's mandates is very clear that is "*to examine the accounts showing the appropriation of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think so and fit.*"



Mr. Speaker, Section 167 of the Public Finance Management Act, 2012 mandates the administrator of Public Funds with the responsibility of preparing Annual Financial Statements for submitting to the Auditor General who is then required to report to the Assembly. It's on this basis that this report was tabled and subsequently committed to the PAC Committee.

Mr. Speaker, as members are aware, the Mortgage Scheme Fund was established pursuant to the Salaries and Remuneration Circular No. SRC/TS/WB/3/14 of 14<sup>th</sup> February, 2014. The Assembly adopted Public Finance Management (Nairobi City County Mortgage Scheme Fund) Regulations 2014, to guide in operationalization of the Fund. Further, the County Assembly Service Board appointed a banking Institution to manage the fund as advised by SRC and that is Family Bank.

Mr. Speaker, in this report the Auditor General observes that there are certain flows and material breach.

Mr. Speaker, the Committee met both the Accounting Officer (Clerk of the Assembly) and the Fund manager and also meet Members of Administration from Family Bank.

Mr. Speaker, the Committee observed certain flows as follows:-

- The lack of submission of bank statements by Family Bank Ltd, showing individual members transactions, as requested by County Assembly Loans Management Committee, signifies that the Bank was unwilling to be transparent on its operations
- The explanation in changes in assets provided by the Accounting Officer should have initially been provided in the Mortgage Fund financial statements
- The process in which Family Bank Ltd was supposed to receive payments for its administrative services was not clearly defined in the Service Level Agreement thus leaving room for the bank to deduct its payments directly from the funds which is a clear violation of the Section 116 (3) of the Public Finance Management Act, 2012
- The termination of the Service Level Agreement between the Nairobi City County Assembly Service Board and Family Bank Limited for administration of the Nairobi City Assembly Service Board Mortgage Scheme Fund by the Nairobi City County Assembly was proper as this Assembly passed.

Mr. Speaker, as I finish I would like to thank the Members of the Committee who seat tirelessly to come up with this report and also I thank the County Assembly through the Clerk and also Family bank official who appeared before us.

This report finally we are recommending Members that:



The Clerk of the Nairobi City County Assembly, who is the fiduciary agent of the Fund, should make a formal complaint to the Central Bank of Kenya to the effect that Family Bank Limited failed to honour their contractual obligations as per the Service Level Agreement and attach evidence indicating the same.

Mr. Speaker Sir, I urge members to support this report as we nearing our exit from this first Assembly and at this point Members are not very clear on even their statements and how much they still owe on this Mortgage fund and this has been brought up by the lack clarity by Family Bank so, I urge the Members to support this motion so that when come next Assembly, the second Assembly such occurrences will never happen.

Mr. Speaker, as I move I call upon Hon. Jack Ngare to second. Thank you.

**Hon. Member for Githurai Ward** (Mr. Jackson Ngare): Thank you Mr. Speaker, and as I support this, I would like to remind Members that Service Level agreement is actual the first agreement that is entered by the contractor and client. Members should know that Family Bank having failed to honour the Original Agreement which is the Service level agreement that is why Members will find that if they want a statement for mortgage it cannot be given.

This has lead us into losing money and I believe there is no Member who has not been swindled money so Mr. Speaker I support this.

**Hon. Temporary Deputy Speaker:** You second or support?

**Hon. Jackson Ngare:** I second. Thank you.

**Hon. Temporary Deputy Speaker:** Thank you.

*(Question Proposed)*

**Hon. Member for Kilimani Ward** (Mr. Moses Ogeto): Thank you Mr. Speaker sir, for giving me another chance to look at this Motion number nine. Mr. Speaker, it happens that I am the acting chairperson of this Loan and Mortgage Committee. That is the reason I stand here to support this motion since I know most of our Members are suffering and I am reminding them to go and check with this bank called Family Bank. The bank acted unprofessional and to ruin Members' salaries and make the Members to become very poor in this Assembly.

Mr. Speaker, I can assure you even today when you go to Family Bank and request them for a statement of a single mortgage loan you will not be given; what you will be given is just a spread sheet. I really don't understand how this bank works.

Mr. Speaker in the recommendations it has been stated very clearly that, and I could wish also Central Bank of Kenya to even blacklist the same institution as it was given order by the President that any

institution which try to portray in a manner that makes the public funds to be lost should not work with the government.

Mr. Speaker that order was very good and I would also wish the same Family Bank to follow the suit because there is no way you can be surcharging members, their principal amounts and also you surcharge them extra amounts and members don't understand how its gong. So am also in support that even it to be blacklisted. On the NYS scandal Mr. Speaker you can see even this bank was involved, this is a bank which most of them time doesn't have professionalism, etiquette of serving customers well. Even this could have been another NYS scam but our able members of this house realized the scam and ensured it would not proceed because they did a good investigation, and ensured this cannot be another scam of channeling public money. Even the mortgage given to members remains public funds. When you mismanage public funds, a small amount of tune of Sh. 500 million then how will you manage money for Kenyans of 40 million people.

If Sh. 500 million that has been given by Nairobi City County Assembly cannot be managed by Family Bank how will they manage the small deposits from traders, hawkers? I wish this report will be implemented and we request CBK to be careful, thank you I support.

**Hon. Temporary Deputy Speaker:** Any other member to contribute to this issue? Hon Jaffer?

**Hon. Member for Parklands ward** (Mr. Jaffer Kassam): Thank you *bwana* Speaker, I take this opportunity to thank the committee for doing a good job and bringing to light things which seemed hidden and kept away from attention of members. We have been told exact truth what has been happening because we have been taken round and round and we didn't know what Family Bank was doing. *Bwana* Speaker indeed this era where the banks go kaput in days like this; several banks have gone broke-Imperial Bank, Chase Bank and many others. It is important that we have a prudent policy and we safeguard whatever little funds which are available in a proper way. So with that recommendation which the committee has come up I think it is high time we support. I personally support the motion and we would like to see it carried through so as to safeguard our interest and as it has been mentioned the CBK being informed, action needs to be taken against this bank for playing around with public funds. I support the motion, thank you.

**Hon. Member for Woodley ward** (Mr. David Kairu): Thank you very much Mr., Speaker sir, I stand here to support the committee, what they have seen and found. It is important for us to know how our banks operates and we being among Kenyans who have suffered under this banks it is high time this bank be put on spot and Kenyans be told how this bank operates because it has so many secrets in it. They don't give what they have been requested by any customer of that bank and for that reason we need to move further and report to any other office that we need to report how this bank operates so that we can save Kenyans and I want to thank the National Assembly for what they did to the Kenyan people to control what they did to our banks because definitely what our banks were doing is not really business; they were just stealing from innocent people who did not know how they operate and that why you see that many

Kenyans today are suffering; they are suffering because their properties have been auctioneered not because of the amount of money that they took but because of shoddy work that are done in banks and for those few remarks I beg to support the committee.

**Hon. Temporary Deputy Speaker:** Thank you Hon. David Kairu. Since there is no other request I will call the mover to reply.

**Hon. Member for Embakasi West Ward** (Mr. Robert Mbatia): Thank you Mr. Speaker I want to thank the members of this assembly for the support they have given to this report and I would urge even the members of the fourth estate if they are in here to make this loud and let the people to know that Kenyans are being fleeced of their hard earned money by some institutions. Mr. Speaker no member of this assembly would today attest they know how much is still owed. We cannot track how much we have been deducted or how much we were given. Up to this day there has not been exit meeting between the Family Bank and the County Assembly Service Board Management committee on this mortgage scheme. This is a very serious matter; Family Bank has continued to postpone the exit meeting because they have nothing to show to this assembly of how they managed that fund, so we urge our Clerk to move with speed, report this matter to CBK and CBK to blacklist as the Hon. Member has suggested. I thank the members and God bless you.

*(Question put and agreed to)*

## ADJOURNMENT

Hon. Temporary Deputy Speaker: Hon. Members there being no other business the assembly stands adjourned until Tuesday 2.30 pm thank you.

**The House rose at 3.42 p.m.**