



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Fourth Session

Tuesday 2nd June 2020

The House met at 2.30 p.m.

Hon Speaker (Ms. Beatrice K. Elachi) in the Chair

PRAYERS

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon Members as you are all aware today we are resuming from the long recess. Accordingly, I take this opportunity to welcome you back. I trust that you all had a fruitful and wonderful break. It is unfortunate that this was happening at the backdrop of the ravaging COVID 19 pandemic. However, I am grateful to the Almighty God for keeping us safe even as we continue to uphold the Ministry of Health guidelines.

Hon. Members, as we resume our sittings today, our in-tray is already full. As you all know, we are in the middle of budget-making process and we need to approve documents as soon as possible. They include; Annual Development Plan, The County Fiscal Strategic Paper and eventually the Budget estimates for the year 2020-2021.

You also realize that with the advent of the Nairobi Metropolitan Services, there will be a paradigm shift on how we shall be engaging both the County Executive and the NMS including on this matter of the budget. I shall be issuing further directions on the how engagements shall be structured.

Hon. Members, without appearing to pre-empt debate, in today's sitting we shall be considering the Supplementary Appropriation Bill No. 2 of 2020. You will recall that the process of considering this Bill was witnessed with disagreements over constitutional and legal issues that I don't want to delve into at the moment. However, I must confess that since the operations of the County government cannot stall due to

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procedural disagreements, I have allowed the County Executive Committee Member for Finance to reintroduce another Bill, which we are set to consider bearing in mind that the Select Committee on Budget, Finance and Appropriation had already interrogated the supplementary estimates and tabled its report. In fact, the current bill has been published by the Chair of the said committee.

I wish to reiterate my earlier statement that I made during the beginning of this year – that during the year 2020, which is a complete number, I will not entertain a divided House. In the spirit of the handshake, our issues shall be addressed in a bipartisan manner for the benefit of Nairobians. I also endeavor to protect all members from both internal and external threats since that is my duty.

Due to the Corona Virus and to conform to the guidelines issued by the Ministry of Health, there are several changes that I have put in place in order to safeguard members and the staff from the virus. Some of the guidelines I communicated to you yesterday in my memo, which was delivered electronically while some shall be domesticated in our Standing Orders. Moving forward Hon. Members, for purposes of clarity, the following are some of the measures put in place:

- i) All afternoon sittings shall end not later than 4.00 pm. Further, Assembly Precincts shall strictly be accessible by Members as from 1.00 pm except for morning sessions.
- ii) Only forty-two (42) seats have been reserved in the chamber and shall be accessible on a first register, first occupy basis save for the designated seats (i.e. for the Deputy Speaker, Majority Leader/Whip and Minority Leader/Whip);
- iii) Members who will not have an opportunity to access the chamber shall follow proceedings from the holding i.e. the Members Lounge (which has live feed). The lounge shall accommodate only 18 members. The rest of Members will show up at entranced their attendance shall be taken by the Sergeant-at-Arms. This is an interim measure as we explore the use of virtual sittings going forward;
- iv) Once seated in the Chamber, Members shall not change seats or draw closer to other Members, the Speaker or Clerks at the Table for whatever reason. There shall be no consultations at the Speakers' Chair or at the Clerks Table, unless in extreme circumstances. Accordingly, it shall be out of Order for a Member to approach the Speaker's Chair or the Clerk's at the Table;
- v) Members are encouraged to access documents digitally from the Assembly Website. The Clerk shall also circulate documents to Members in the Chamber via digital gadgets;
- vi) Members shall while entering, while within and when leaving the Chamber, observe the social distancing requirements, put on face masks and sanitize frequently;
- vii) No visitors shall be allowed in the Assembly precincts;
- viii) The Sergeant-at-Arms shall take attendance register for all Members in the precincts of the Assembly; and
- ix) The restaurant shall remain closed until further notice.

Similarly, Hon. Members, since there will be need to clean and fumigate the Chamber after sittings, we shall be meeting twice a week i.e. Tuesdays (morning and afternoon) and Thursdays (afternoon).

Hon. Members, as I conclude, my office has just received a letter from the Secretary General of the Jubilee Party, the Hon. Raphael Tuju, conveying an intention by the Party to change its leadership in the County Assembly. However, due to the gravity of the issues raised therein, my office is still reviewing the letter and I will issue a comprehensive communication regarding the admissibility of the said letter before the rise of this House.

With that, I wish you a good time as you expedite your work to the best of your ability. God bless you.

(Applause)

PAPERS

Hon. Speaker: The Hon. Chairperson of the Select Committee on--- who is tabling the report?

Hon. Charles Thuo: Thank you Hon. Speaker. I wish to move the motion that the Assembly adopts the report of the Select Committee on Procedures and Rules on amendment of Standing Orders laid on the Table of the assembly today Tuesday 2nd June 2020. Thank you Hon. Speaker.

Pursuant to Standing Order No. 191 I beg to lay the following paper on the floor of the Assembly today Tuesday 2nd June 2020; the report of the Select Committee on Procedures and Rules on amendments. Thank you Hon. Speaker.

Hon. Speaker: Hon. Gari, Board member?

Hon. Maurice Gari: Thank you Madam Speaker. I beg to lay the following paper pursuant to Section 19 of the County Assemblies Service Act 2017 on the Table of the Assembly today Tuesday 2nd June 2020; the Annual Financial Report of the Nairobi County Assembly Service Board. I beg to lay.

NOTICE OF MOTION

Hon. Charles Thuo: Thank you Hon. Speaker. I beg to move the Notice of motion that; this Assembly adopts the report of the Select Committee on Procedures and Rules on amendment of Standing Orders laid on the Table of the assembly today Tuesday 2nd June 2020.

Hon. Speaker Section 14 of the County Government Act 2012, gives powers to the County Assembly to make Standing Orders in consistent with the Constitution and this Act regulates the procedures of the county assemblies including in particular orders for the proper conduct of the proceedings through the Select Committee of Procedures and Rules. I beg to give Notice of that motion.

Hon. Maurice Gari: Thank you Madam Speaker. I beg to give Notice of the following motion; that this Assembly adopts the Annual Report of the Nairobi County Assembly Service Board for the financial year 2019-2020 laid on the table of this assembly today Tuesday 2nd June 2020.

MOTION**ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON PROCEDURES AND RULES ON THE AMENDMENT OF STANDING ORDERS**

Hon. Speaker: Majority Leader!

Hon. Charles Thuo: Thank you Hon. Speaker. I beg to move the motion that this Assembly adopts the report of the Select Committee on Procedures and Rules on amendment of Standing Orders laid on the Table of the Assembly today Tuesday 2nd June 2020.

Hon. Speaker, Section 20 of the County Government Act 2012 gives powers to the Assembly to make Standing Orders in consistent with the Constitution and this act regulates the procedures of the county Assembly including and in particular orders for the proper conduct of the proceedings through the Select Committee of Rules and Procedures.

Hon. Speaker, you will recall that on 11th March 2020, following the wide spread of the virus the World Health Organization declared Covid 19 a global pandemic forcing governments and states to institute public health protocols and guidelines to combat the spread of the virus. The government of Kenya through the Ministry of health issued preventative measures to combat the spread of the virus; this being closure of all the public and private schools, 7pm to 5 a.m. curfew amongst others.

The Nairobi City County Assembly Rules and Procedures Committee is required to revoke Standing Orders 204 and 246 of the Assembly's Standing Orders and propose the necessary amendment to provide for the following provisions:

- i) Procedure to provide for virtual meetings in the Assembly;
- ii) Procedure to provide for alternative and additional sitting arrangements during assembly or committee proceedings; and
- iii) Procedure to provide for use of technology and devices during the assembly or committee proceedings.

This will enable the Assembly to execute its mandate effectively during these extra ordinary circumstances and any other unforeseen circumstances in the future. I call the Leader of Minority, Hon. Mberia to second the motion.

Hon. Speaker: Hon. Anne Thumbi, why have you changed your seat?

(Hon. Anne Thumbi spoke off the record)

Just go back to your seat and also Hon. Museiya. It is good to respect and I have just given a communication and there is a reason for that. These are the same rules in the National Parliament; we are not adopting them by ourselves. We have borrowed from these rules our big brothers in National Parliament. Proceed, Minority Leader.

Hon. David Mberia: Thank you Madam Speaker. I beg to second the motion. The amendments of the Standing Orders are to include legalizing the use of virtual or zoom meetings and the deliberations of this County Assembly. In the last one or so months, we have been conducting our meetings through zoom which has been very effective. I therefore second the legalization of this mode of communication and conducting of business in this County Assembly. I beg to second.

(Question proposed)

Hon. Charles Thuo: Thank you Hon. Speaker. I am sure that the whole Assembly is in agreement with the wise decision of the members of the Select Committee of Rules and Procedures that we need to be up to date and we need to use the best practices so that we ensure we perform our duties as MCA's despite the pandemic. This will mean that we don't need to adjourn the Assembly anymore because we can be able to perform our duties virtually. That is the way to go, I thank members for their support, and I am sure that it is going to be more effective in future. Thank you.

(Question put and agreed to)

ADOPTION OF THE ANNUAL REPORT OF THE NAIROBI COUNTY ASSEMBLY SERVICE BOARD FOR
THE FINANCIAL YEAR 2019-2020

Hon. Maurice Gari: Thank you Madam Speaker. Once again I beg to move that this Assembly adopts the Annual Report of the of the Nairobi County Assembly Service Board for the financial year 2019-2020 laid on the Table of this Assembly today Tuesday 2nd June 2020.

Hon Speaker, today marks a historic time in this institution since its inception. I have proudly laid the Annual Report of the County Assembly Service Board for the Financial Year 2019/2020, which has been prepared in accordance with Section 36 of the County Assembly Services Act, 2017.

Hon. Speaker, the previous Service Board had never updated this Honorable House on the business they had transacted in a span of seven years. Today, Madam Speaker, less than a year of our existence, we can highlight our achievements and table a report on the same.

Hon. Speaker, following our assumption of office, we have managed to achieve the following: -

1. Ensured that the Service Board is fully constituted by recruiting the fourth and fifth Members;
2. Unlocked the medical insurance cover for Members and Staff that had been suspended. Members should know that it is the previous Board, which procured this insurance that is giving us problems. However, it is worth noting that the Assembly has been issued demand notices by Kilovoo auctioneers for insurance debt of Kshs 3.6 million in the FY 16/17;
3. Recruited Personal Assistants for both the nominated Members and the County Assembly leadership;
4. Approved to increase the Ward Office Imprest from Kshs 58,500 to Kshs 100,000 effective July 2020;
(Applause)
5. Prioritized funding of Assembly Committees with an emphasis on local retreats;
6. With the support of the Public Service Commission, we have adopted a new organizational structure/staff establishment that guarantees career progression and promotion of all staff, which shall be implemented as from July, 2020. It is disheartening Madam Speaker, to see our staff working for seven years without promotions when we know that every public servant is entitled to promotion at least after three years. We have created directorates. The structure creates an office to be known as Ward Liaison meant to specifically handle matters of Members Ward Offices. Members concerns

such as processing of payments and other emoluments will be dealt by designated officers in that office;

7. Intervened and approved a waiver for the re-payment period of Car Loan and Mortgage in order to cushion Members and Staff from the adverse effects of the Corona Virus.
8. Adopted a policy on holding of virtual meetings by Committees pending domestication of the same in the Standing Orders;
9. Organized capacity building trainings for both Staff and Members; and
10. Fast-tracked resolution of pending staff disciplinary cases and pardoned officers who were maliciously punished by the previous Service Board.

Hon. Speaker, despite these achievements, we have faced the following challenges too: -

- i.) Senior Staff of the Service attempted to sabotage and undermine the work of the Service Board when we took over. However, we managed to instill discipline and designate alternate officers to perform their duties in order to forestall the operations of the County Assembly;
- ii.) The Interim Clerk, Mr. Jacob Ngwele sued the Service Board against likely victimization. This matter has been dragging in Court and we hope it shall be finalized before the commencement of the next financial year; and
- iii.) The issues affecting the Office of the Clerk have seen challenges is financial management in the Assembly since the Clerk is by law the Accounting Officer of the Assembly. However, we must appreciate the National Treasury for intervening and ensuring that operations of the Assembly did not stall. We also wish to thank Members for their patience whenever there have been salary delays as witnessed in the month of April.

Madam Speaker, in the next financial year, we have planned the following amongst others: -

- a) Acquire more office space for Members particularly nominated Members and Staff;
- b) Increase funding for Committees;
- c) Follow-up on the statutory contributions by Members to ensure that they are up to date,;
- d) Establishment of a catering unit;
- e) Improve efficiency in service delivery; and
- f) Engage SRC on Members' and Staff Salary and Allowances.

Madam Speaker, before I call the seconder, I was given this opportunity by my party; Orange Democratic Movement, to come and represent the members of NASA Coalition. There had been push and pull when we were given the mandate to serve as board member. Board members especially in the previous regime didn't believe that we can serve well in those positions.

(Applause)

I think members can testify that today, I was told by the previous Deputy Clerk that the Board cannot be questioned. There is no entity in this country except the national security, which cannot be questioned or audited, Madam Speaker. We have a Board, which is lenient, which is working. Any Member or staff who feel that something is not going right, he or she has a right to come and question because this is their welfare. Members needs insurance so that their families can be treated.

When we were elected Madam Speaker, we didn't come here to be punished or to punish members. We came here for the wellbeing of the electorates and that of the Hon. Members. I cannot work for eight hours and then you are telling me that I don't have privileges, I have privileges. Members should enjoy those privileges. Members have offices in the Ward level and in town including the elected and the staff.

Madam Speaker, we want to leave a legacy when we leave. Once I leave I want to say that I once worked in the Nairobi County Service Board and these are my achievements. When I see members smiling and lifting their heads telling me; *Mheshimiwa* thank you for the work you did for us. We are past the era of threats and saying *utaniona*.

(Applause)

Madam Speaker I want to remind you when we were elected in 2017 and you were voted in as the Speaker of the County Assembly of Nairobi but unfortunately, you were chased away. I have never seen an institution that disobeys court orders. We must be questioned as a Board, we must give answers, and we must make sure that we take care of their welfare. I want to see members when they go for the election that their gratuity is up to date. I don't want to see any member crying during this time of COVID 19. It is very unfortunate that members can go without salaries for a period of two months because of the push and pull and personality – I can do this – you can't do that. We are all Hon. Members, if you can do it, come and help us. The spirit of revolution is that I can't see my brother begging for food—Today I told my brother to send me Kshs. 1,000/= to fuel my car because I have not received my salary, it is a shame because of the push and pull.

Madam Speaker members should allow us to be ruled---

Hon. Speaker: Order!

Hon. Maurice Gari: Members should give leaders their time because when they were there they were respected. Things were happening here and we were not complaining. If your party says today it is you, who is Gari to Complain? I urge this House to stop this push and pull because we are in the year 2020. If we continue like this, who knows who, who knows State House or the Prime Minister's office, we won't go anywhere. We were elected to serve Nairobians and I was given the mandate to represent you in the Board.

Madam Speaker, I hope that from tomorrow that these members will be smiling to their homes, there is light at the end of the tunnel. *(Applause)* This issue of the Clerk we should form an ad hoc committee, we must advertise it. We must put this thing to the end, Madam Speaker. I cannot continue to be in that Board when somebody says that he can hold this Assembly at ransom.

(Applause)

If they continue that way, we will give the signal on what to do next. We cannot continue to be the slaves of two or three individuals, Madam Speaker.

Hon. Maurice Gari: ...there is light at the end of the tunnel *(applause)*. Madam Speaker this issue of Clerk which we formed an ad hoc committee, we must advertise it *(applause)*. We must put this thing to an end. I cannot continue to be in that Board when somebody thinks he can hold this Assembly at ransom *(applause)*. If they continue that way, we have been given signal and we will give the signal on what next. We cannot continue to be the slaves of two or three individuals. When the President called us, we were told to support the NMS. And we took all to the NMS. And you can see what is going on in Nairobi. If you walk in

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the CBD –even the President and the former Prime Minister were there yesterday at night and they saw what NMS has done.

Madam Speaker things are working! (*applause*). And things will work when I will be in this Board and I am encouraging the Jubilee side to give me one member who was taken to court to come back to the Board and we do our job. Madam Speaker this is a collective responsibility. It is not Gari's responsibility or the Speaker's responsibility. It is a collective responsibility between all Hon. Members – whether elected or special elect. We must have goodwill between our members.

We should not continue throwing words here and there as if we are not Hon. Members. We can disagree to agree but if it comes to the welfare of members, if anybody stands on our way we will go with you like a river. I call Hon. June to second.

Hon. June Ndegwa: Thank you Speaker I second this motion by saying that continuous improvement is better than delayed perfection. I second (*applause*)

(Question proposed)

Hon. Maurice Gari: Thank you Madam Speaker, I have said a lot and I think it sunk to the ears of Hon. Members and thank you, members, for giving us this opportunity to serve you more so as Board member and I thank my leadership the Minority Leader and the Minority Whip plus the entire deputies for giving me humble time to serve in this Assembly without quarrels. Madam Speaker I beg to move.

Hon. Speaker: Hon. Members for the avoidance of doubt the Jubilee member is still a Board member. There is no day we ever removed him. We wait for the case to end. It has no dispute at all. We should always remember that.

(Question put and agreed to)

BILLS

First Reading

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL 2020

ASSEMBLY BILL NO. 2 OF 2020

(AN ACT OF NAIROBI CITY COUNTY ASSEMBLY TO AUTHORISE THE ISSUE OF SUM OF MONEY OUT OF THE COUNTY REVENUE FUND AND ITS APPLICATION TOWARDS TO THE SERVICE OF THE YEAR ENDING 30TH JUNE 2020 AND TO APPROPRIATE THAT SUM AND A SUM VOTED ON ACCOUNT BY NAIROBI CITY COUNTY ASSEMBLY FOR CERTAIN PUBLIC SERVICES AND PURPOSES)

Second Reading

THE NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL 2020

ASSEMBLY BILL NO. 2 OF 2020

Hon. Speaker: Chair, Budget

Hon Robert Mbatia: Thank you Madam Speaker, I want to implore the Chair that as Budget Committee there is confusion on the Report and the Appropriation Bill presented. I would request that you give us time to withdraw and probably present the proper report and appropriation tomorrow in the next sitting. The reason is that the report before us is already prosecuted in this Assembly if you can look at the report on

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22nd Report of the Assembly was already prosecuted here and this is the Bill that we prosecuted to the very end then some people canceled it and I understand you're already in court. You are already in court Madam Speaker on this same Bill. So I request that we withdraw then we have some consultation then from there, we can reintroduce it again. That is my request to the chair.

Hon. Speaker: Hon Chair, I think one of the things you must apologize to this House is that you are the one who signed the Appropriation Bill. I am wondering when you signed the Appropriation Bill and you didn't even inform us, and the letter came, and I want to read you the letter from the CEC Finance.

I believe when you signed the Appropriation Bill you had sat down with the CEC Finance to agree. The report I have read, and that is why I agreed to all these things, I do not see any confusion unless you have something that I don't have. It is tallying word for word. I said in my communication and I hope you were here when I was reading. If you were not here, then I will have to give you a copy to read what I said. The report tallies.

Secondly, they sent their appropriation and you signed for us and I respected because you are my chair and I have always respected everything you sign knowing very well you signed on behalf of the House. Therefore, we shall proceed and finalize this matter (*applause*).

Hon. Robert Mbaia: Madam Speaker I beg to first beg your ears on the same...

Hon. Speaker: Chair, I wish when you signed the appropriation from the Executive, you could have even looked for me, because I thought you finalized. I don't want any disagreement on this matter. The report that is here tallies word for word. I want us to proceed. I don't want us to deal anymore with this issue of the budget. You agreed with the Executive, signed against the Bill, they published it in the Government Printer, and after all that, I have made sure, so that we don't go wrong on our procedures.

I have taken the same report and since we had canvassed on this matter, and I believe why they told you to sign the appropriation is because they already knew you had canvassed about it and it was only the matter of the Appropriation Bill. Therefore, proceed with the way it is, we finalize it. You will go back to sit and be able to ask that question because I don't want to engage on the matter again. And when I look at IFMIS I see it is closing. I don't want the Governor to ever imagine... last time we were doing because that is what they had signed on.

Today I am doing it for my Governor because that is what he wants, and that is what he brought to this House. I ask the Majority Leader to follow up. Kindly chair let us proceed and finalize this matter. Let us not bring more disagreements.

Hon. Robert Mbatia: Madam Speaker I totally and respectfully agree with what you are saying but kindly let me guide the House a bit such that people know that I have always had to sign the appropriation for it to go to be published, for it to come back here with the estimates then we prosecute it to the end and make the changes available. That is always the order. For me, on the 19th of May, I did sign an Appropriation Bill for publishing. But this report is dated 1st of April. This is the one that we prosecuted previously. So this is already in the *HANSARD*.

Hon. Speaker: Exactly. That is why I said in my communication. I said we have canvassed the matter in the Budget Committee. We finalized the report and that is why I am saying unless again there is something

I am not understanding. I thought when you signed it you did due diligence. You know very well before you sign the appropriation you must have brought a report to this House.

But if you signed appropriation and published, I mean when last time you canvassed I remember we did the report, passed it and that is when they brought the appropriation. I don't know how we changed, brought the appropriation Bill with the letter and it is signed by you chair. For purposes of making this Assembly not go wrong on procedures, I must have estimates and that is why I have said since the supplementary is part and parcel of that report you want to bring. The chair I think I stop from there. Let's not us not go back and forth because if you did not sign this and brought the estimates and you know well I have done what is rightful.

Now that you brought the appropriation Bill it means the estimates are already there. They are the original estimates; they are not the estimates that were amended. Let us not confuse. In the *HANSARD* I have a report that is amended based on NMS. This time I have gone back to the original report that the Governor brought with what he has brought me and they tally. I have said if there is anything that is not tallying I need to know. But it went through. Before I agreed even for the appropriation I went through and therefore let us proceed chair.

Hon. Robert Mbatia: Madam Speaker the Bill that I signed on the 19th is not what is before us here. I want to beg the chair that whatever is captured in the *HANSARD* is public. I would request the chair that we withdraw the Bill, we consult. We are in agreement that we need a Bill as soon...

Hon. Speaker: Chair, I am not withdrawing. I have already tabled. I have a letter from the CEC Finance attached to what was given to me. This is what we are passing for them. This is what they want. Last time we tried to do what was rightful we were told it was wrong. I was even advised by the Solicitor General. I am now following the Solicitor General. This is what they brought, in this manner and that is how it goes with this supplementary. Let us proceed.

I know my chair is feeling a bit harassed but you see you are the one who harassed me. You brought me a supplementary you signed and published and now you harass me, my chair. I wish you came and told me 'Madam Speaker, this supplementary appropriation I have signed we need to canvass'. But you never. And now I want to do the right thing. You are the one who wants to deny the Governor money. I am not denying the Governor money (*applause*). Now I want to stand with my Governor (*applause*). Because you know everyone goes to the Governor to say 'Speaker has done this and that'. Most of the time I do things to help my Governor but many people think I do it in the wrong way. This one we are not denying the Governor. The Governor is waiting for the money. Proceed (*applause*)

Hon. Robert Mbatia: Madam Speaker I want it to be captured...

Hon. Speaker: It is being captured!

Hon. Robert Mbatia: But this time it is no the Speaker; it is the Chair Budget. I signed three Appropriation Bills. The first one they withdrew. The second one is the one they took us to court. It is the one the Solicitor General canceled. The third is not here. So let it be captured today that it is not the Speaker denying but it's the Chair, Budget. And it is only just for a single day Madam Speaker.

Hon. Speaker: Order, order, order. Chair Budget the only challenge you face is that what they gave you to sign is called Supplementary no. 2 Appropriation Act 2020. I believe that after going through the

process. Therefore, proceed and pass the Bill. You remember this is a very grave matter. It has gone through many hands and that is why I don't want us to engage again as the Assembly to look like we are the ones to blame. This is them; whatever happens, let it be the way the Solicitor General advised and the Speaker followed it to the letter and gave back. I believe the way the Solicitor General advised is how it has been done. That the Appropriation Bill be returned back to be passed. The Speaker must ensure there are estimates. Proceed.

Hon. Patrick Karani: Madam Speaker I don't think there is something wrong but I think there is confusion somewhere. One as my able chair said, we have worked on three appropriation Bills and the last one we worked on included NMS so that it will be easy to execute. What we have here in the report there is NMS but when you go to the Bill, how the money is voted NMS is missing. We had costed the transferred services at Kshs 15 billion but when we went through the figures, we realized that it was not possible to transfer because some monies had been earlier spent. So, in the last Bill we had agreed with NMS that they have Ksh 2.2 billion for recurrent and Ksh 1.2 billion for development for the remaining period. In total it is sh. 3.7 billion. But if you look at the figures and the Bill there is no NMS. And everybody is appreciating NMS is working. There is no NMS in this appropriation unless it is written in another language you don't understand. *(Loud consultation)*. There is no NMS here. Let us withdraw Madam Speaker.

Hon. Speaker: No, no, no. you are not bringing that into this House.

Hon. Moses Ogeto: Madam Speaker I don't understand the conversation which is before this House and yet Hon. Speaker made a ruling. Under Standing Order 1, you are not privy to any information, which the chair and the deputy chair are conversing before this Assembly *(applause)*.

Hon. Speaker unless you want to withdraw your ruling which you made to this House then it is in the spirit of this House that if they don't want to move the report which they signed then the other members of the Budget committee or Majority Leader can move the report. You were not invited to the same proceedings now they want to engage you in that invitation and you made a ruling on the same. The Majority Leader can move the motion if the business is not going through *(applause)*.

Hon. Speaker: Proceed Minority Whip

Hon. Peter Imwatok: Madam Speaker I think some of us are coming with a clean heart that we need this Assembly to move in a positive direction. Just as my able deputy has said you made a ruling and we respect that. The government side has a position to take. If the government side through the leader takes a position that is what we are waiting on this side. If you are passing the budget pass, if not let's go for a vote. That is the procedure of parliament. The chair has said. I believe the chair can even canvass the leader if they are in agreement or not.

So, Madam Speaker, it is a healthy relationship. It is a symbiotic one. Madam Speaker the ruling is very clear. I support that if today- we have only left with 27 days to end the financial year- we are aware there are few things to be done by the county government. We are not prepared to deny one Mike Mbuvi Sonko money *(applause)*. Therefore, we are prepared to pass this Bill. Thank you.

Hon. Abdi Hassan: Thank you Madam Speaker for giving me this opportunity to speak. Madam Speaker I think when we came to this House we need to do things in good faith. When we are listening to the Chair of Budget when the budget is brought to this House there are clear provisions of the Standing Order

to follow. When the Executive brings budget to this Assembly, it is committed to the Budget Committee. As we clearly heard the report before this House is not the report, which the same chairman signed on the 19th. If we go on with this report that means NMS will not get the money. We don't need to play around with this thing. We need the NMS to function and we need the County Executive to function. We don't need to have pull and push on this matter. Madam Speaker I am also asking my colleagues from ODM to understand that on our side of Jubilee – when I hear my good friend Hon. Imwatoke say that 'when the leader of government business is talking', Madam Speaker what I want to tell him is that the leadership of Jubilee has changed (*Loud consultations*), it...

Hon. Speaker: Order, order, order members.

Hon. Abdi Hassan: Thank you Madam Speaker for protecting me. Madam Speaker if the members of Jubilee were the ones complaining that is an issue. Madam Speaker we want to follow (*Loud consultations*)

...**Hon. Speaker:** Order, order. Proceed Hon Guyo

Hon. Abdi Hassan: Madam Speaker I think this is not a shouting house and members need to give each and every individual opportunity to speak all they want to speak. If you have a contrary opinion to what someone is talking about, then you can ask to be given an opportunity. Madam Speaker

Hon. Speaker: Order, order members. Order, *Mheshimiwa* Palapala order. That is the last warning!

Hon. Abdi Hassan: Madam Speaker I would urge your kind indulgence because it is wise on your part to accept what the Chair of the Budget has said and withdraw this proposal so that they can come up with what they have agreed with NMS. Thank you Madam Speaker for the opportunity. Thank you.

Hon. Speaker: Hon Members. Chair it is always good to come early in the House because when you bring such confusion to the chair it is wrong. I believe when you signed this, it is your signature, I believe when they decided the appropriation to be gazette and be brought and I believe there is a good team at Budget that advises everything. Since that time to date, nobody brought a report. This is what came.

(Hon. Robert Mbatia spoke off-record)

No. you have not. Unless the letter from the Executive with what they attached is not the right one. That is what I said I am not having people doing their mistakes. I am not. We did it the first time, we were banned. I am therefore proceeding with this now. Majority Leader, move this budget.

Hon. Charles Thuo: Thank you Madam Speaker. Can I approach the chair?

Hon. Speaker: Yes, with your mask on.

(Hon. Charles Thuo consulted Hon. Speaker)

Hon. Charles Thuo: Hon. Speaker, it was the expectation of the office of the Majority Leader that the Hon. Chair of Budget was going to read the Appropriation Bill. It is why I am trying to organize myself and get a moving note. I beg the Chair to be a bit patient.

Mr. Speaker, this is the 22nd Select Committee on the County Finance, Budget on the Nairobi City County Supplementary Appropriations Bill 2020 (Assembly Bill No. 2 of 2020). I beg to move the Bill. Thank you.

(Applause)

Hon. Speaker: Who is your seconder?

Hon. Charles Thuo: I beg the Leader of Minority to second.

Hon. David Mberia: Thank you, Madam Speaker, I beg to second that the Governor of this County needs money. Therefore, as a House, we give the Executive what they want. I second.

(Applause)

(Question proposed)

Hon. Robert Mbatia: Thank you, Madam Speaker. I am not rising to support or oppose but to notify this House that this same Bill has been prosecuted in this House. Let it be captured in the Hansard. Let it be known that this same Bill is the one that is in court.

Madam Speaker, we might be denying NMS resources and funds just because of not withdrawing this Bill and consult. I want to concede that we passed and prosecuted this Bill here. But there is another Bill that I signed for publishing and they brought the estimates here that is not the one present on the floor of this House. I rest my case.

Hon. Speaker: Chair, I want you to be very keen, and kindly next time before you sign something, look at it. When you come to the Assembly and you tell us we have wrong things and it has your signature, it is unfortunate. The amount required in the year ending 30th June 2020 for the following program of Nairobi Metropolitan Services Liaison: total of Kshs. 2.2516 billion. Are we there? That is vote R5328 on what I have. That is why I have said I have the correct one, unless there is something.

(Loud consultations)

Members can be given the correct one. What I have and the letter from the Governor is what I am prosecuting. That is now an error of clerical which can be amended, but what I have is what I had already read.

(Hon. Member spoke off the record)

No, no, I am proceeding. Serjeant-at-Arms, supply the right copy which I have. Yes, Chair.

Hon. Robert Mbatia: Madam Speaker, I think we are now seeing the light. It was just confusion that I was requesting that we withdraw this same Bill here. If that is the bill you have, then that is a fresh supplementary budget that needs to be committed to the Budget Committee so that we prepare our report on the estimates, bring it here, pass it, and then the Appropriation is corrected as it should be.

Hon. Speaker: Chair, I have said and I want to repeat, I am responsible. Before I table anything here, I read the documents. Even if I keep quiet sometimes, I see things. Before this thing came, I have read the original and it tallies word to word. You have argued the first one and I have rectified. I want the Serjeant-at-Arms to give me that original report. I will sit down with the Chair and on Thursday, we will come to this House to say what we passed and what we have tallies.

(Applause)

You will also have to be answerable to me why you signed an appropriation without even sharing with the Speaker. It is not fair, I have to be honest. I have finished and we can do that afterwards.

Hon. Robert Mbatia: Give me a right of reply, Madam Speaker.

Hon. Speaker: I have said on Thursday. I have ruled.

Hon. Charles Thuo: Thank you, Hon. Speaker. I am glad that Members and indeed the Chairman Budget has finally agreed and realized that NMS is properly funded. The concerns of the Members, the Nairobians and the President is that NMS is properly enabled to perform its duties. Now being in agreement that NMS has properly been funded here, I don't think that we should hesitate any longer but proceed and pass the Appropriations Bill so that NMS and our Governor His Excellency Mike Mbuvi Sonko could get money to run the affairs of this County.

(Applause)

Madam Speaker, I beg that you proceed with the Budget. Thank you.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House by the leave of the House)

COMMITTEE OF THE WHOLE ASSEMBLY

(Order for Committee read)

(Madam Speaker left the Chair)

IN THE COMMITTEE

[Hon. Chair (Mr. John Kamangu) took the Chair]

Hon. Chairman: We are now in the Committee of the Whole---

(Several members stood up)

(Hon. Peter Imwatok spoke off the record)

Hon. Chairman: Let them contaminate.

NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2020 (ASSEMBLY BILL NO. 2 OF 2020)

Hon. Chairman: Hon. Members, we are now in the Committee of the Whole Assembly to consider the Nairobi City County Supplementary Appropriation Bill, 2020 (Assembly Bill No. 2 of 2020)

We will start with Clause 2.

Clause 2

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(Question that Clause 2 be part of the Bill)

(Question put and agreed to)

Clause 3

(Question that Clause 3 be part of the Bill)

(Question put and agreed to)

First Schedule

(Question that the First Schedule be part of the Bill)

(Question put and agreed to)

Second Schedule

(Question that the Second Schedule be part of the Bill)

(Question put and agreed to)

Title

(Question that Title be part of the Bill)

(Question put and agreed to)

Clause 1

(Question that Clause 1 part of the Bill)

(Question put and agreed to)

Hon. Charles Thuo: Mr. Chairman, I beg to move that the Committee do report to the Assembly its consideration of the Nairobi City County Supplementary Appropriation Bill, 2020 (Assembly Bill No. 2 of 2020) and its approval thereof without amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Hon Speaker (Hon. Beatrice Elachi) in the Chair]

REPORT AND THIRD READING

NAIROBI CITY COUNTY SUPPLEMENTARY APPROPRIATION BILL, 2020 (ASSEMBLY BILL NO. 2 OF 2020)

Hon. John Kamangu: Hon Speaker, I beg to report that the Committee of the Whole House has considered Nairobi City County Supplementary Appropriation Bill, 2020 (Assembly Bill No. 2 of 2020) and its approval thereof without amendments. Thank you, Madam Speaker

Hon. Charles Thuo: Thank you, Madam Speaker, I beg to move that the Assembly do agree with the Committee in the said report.

(Question proposed)

(Question put and agreed to)

Hon. Robert Mbatia: Thank you, Madam Speaker. I beg to move that the Nairobi City County Supplementary Appropriation Bill, 2020 (Assembly Bill No. 2 of 2020) be now read a third time.

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

PERSONAL STATEMENT**SECURITY OF MEMBERS**

Hon. June Ndegwa: Madam Speaker, there is something I would like to inform the House with your permission.

Hon. Speaker: What is it?

Hon. June Ndegwa: Madam Speaker, on the 30th of April 2020 at about 1:30 p.m., my colleagues and I were having lunch at a certain place on Dennis Pritt Road. Coordinates of my location were sent by Hon. Nyambura to a public Jubilee Group. I know it is a violation to send someone's coordinates especially if they are not perpetrators of victims.

Madam Speaker, I also know what the president ascended about cybercrimes. It is a violation of Section Four of Computer and Cybercrimes Act of 2017. I have continued to say, and I have brought this information to Powers and Privileges Committee that my life and that of my colleagues continues to be in grave danger.

I also want to inform you that I have credible sources that Hon. Abdi Hassan Guyo has been tracking our locations and our movements to execute something that I do not even understand.

I have *Mheshimiwa* Defao here who has a recording of a brother to *Mheshimiwa* Abdi who threatened his life and went to torch his restaurant sometimes back. Unfortunately, nothing has been done. I bring this to the Hon. House because we have been told that there is a certain young man, a Directorate of Criminal Investigation (DCI) officer who is about to lose his job because of doing favors for people in this House. We

are not the only ones, there are people here who have been threatened. This has to stop. Cybercrime has to stop.

(Applause)

I do not understand the motive because it is not written on your face. As we continue to do this and bring sanity in this House, both on the Majority and Minority sides, I would like this House to take these things seriously. We have written to the DCI and the Directorate of Public Prosecutions (DPP) and the Ministry of Interior to check on these things, but we are told there are godfathers up there. This is not right.

At this point, I would like this House to give us security because this is not something that we are going to let it go lightly. It has happened and it is something that people have complained in this House but nothing has been done. Thank you.

Hon. Charles Thuo: Madam Speaker, the issue of security of our all our members no matter their political inclinations cannot be overstated

(Applause)

There is need that any member who has been elected either from the parties or from the public to be able to conduct their businesses in this Assembly without fear. Members should not look over their shoulders when conducting their businesses, when they have to think what is going to happen to them, when they have to think about the security of their families.

(Applause)

Hon. Speaker, the issue of security of our members is paramount and if it is not going to be addressed, then this House needs to be adjourned. We cannot have members living in fear. If insecurity starts with me today, tomorrow it will be you if you don't speak. If you don't speak because it is Hon Juju and Defao, when it is your time, there will be no one to speak for you. This House must stand in unison and defend the ability of Members to perform their duties without any fear.

Madam Speaker, I am one of the people whose phone has been tracked. I have reported to DCI. I might be used to such threats but this one concerns even my family. How many times have I been tracked/ do they know where my family is at any time? Some of them are very close to my family. It is scaring to some people. Just the other day, Hon. Imwatok made a very sensation press statement. This is not the first time Hon. Imwatok is threatened. We cannot continue to act like it is normal yet it is not. It is illegal and it has to be stopped by all means possible.

Madam Speaker, I beg the Chair to act decisively on that and assure these members that their security is assured. Thank you.

(Applause)

Hon. Speaker: Yes, Minority Whip.

Hon. Peter Imwatok: Thank you, Madam Speaker and the entire House. As you hear my voice, it might not be sweet to hear.

While I was seated here, a former caretaker of where I stayed called me through my In-Law's phone and told me that four guys came at 5:30p.m. and wanted to be let in but they couldn't identify themselves.

Madam Speaker, it is easy to talk, but some of us with our families don't sleep in our houses. It is easiest thing for you to laugh and take it as a joke. There is even a time Hon. Guyo and I went through the

same case late last year. It is not easy for you to leave your family every morning and not sure whether you will go back home.

Madam Speaker, I remember I was not in State House, I had gone for a funeral for Rose Ogonda's mother. But I can quote what His Excellency the President said, "In case there is any member whose security is violated" ----Madam Speaker, kindly protect me from Hon. Njambi. This is a House of rules and procedures and people should not come when drunk. It is either you drink in your house or a bar but not when coming to the Assembly.

I am talking about my life here. I said in the media under the guidance of the Speaker and other people, that even today if I rest, I am sure I have done my part. Even if I walk out of here, I will not change my phone, and I will not call anyone until my burial day. We swore in this Assembly to speak the truth. But it is unfortunate if within us---- I remember what I am going through, a member told me three weeks ago that you have been told in the next two weeks, you will be fixed. I took it as a joke. Now, I am seeing it as a reality that I cannot walk out of my house. I cannot walk alone, Hon. Osman has to take me home. I pick Hon. Defao or pick Hon. Oti Frank to make sure that incase I am taken, there is somebody around me.

Madam Speaker, our request to the President is as he said in the State House. What happens with our security? The President never said the Majority Leader, the Whip or Minority Leader to do this, Madam Speaker, we put unto you that our security is in disarray. Madam Speaker, I don't think you will take care of Sharleen plus your kids. It is upon this House. You might have your interest in the Government but kindly respect *Mheshimiwa* Imwatoke. He is also a father the same way your son and daughter want o go to the best school. That is the same way my child wants. Just the same way my child would not want to see your casket because of speaking the truth, that is the same way my daughter wants to see me alive.

Madam Speaker the issue of security cannot be compromised because as you are talking here, our fellow colleagues are streaming our discussion and your communication live on Facebook for outsiders to see what is going on in the House. Our lives always is as if we are juggling a liver. You don't know whether you will see tomorrow because of speaking the truth.

I want to repeat here, this son of Teso, even if he sleeps today, he has done his best. I have never destroyed the course of what I swore in that corner. That the truth must be said. When you say people are siphoning public money from Nairobi County Government, we say it as it is. When we mention names, we will mention again and again until I will rot on my grave. I can assure you as a Teso son, I will turn on my grave. I am bitter, Madam Speaker. what we do is for the good of Nairobians but people have turned it to be about them. I am happy everyone is talking about NMS. I was talking to the Majority Leader today, I told him that if he could have listened to us in December, we could not have been where we are today because we saw Nairobi going to a wrong direction. we spoke it out.

Madam Speaker, how many times did you spend money to sleep in an apartment? I never slept in my house for one and half months. I had no money, I could lie to you to send me money in pretense that I have a funeral just to pay for where I am sleeping. It is so unfortunate. People come here to laugh about our lives. You are joking. I am born of Andrew Imwatoke, who is my son now. We ask for your protection----

Hon. Speaker: It is time. I have given you enough.

Hon. Imwatok: Madam Speaker, if your Chair cannot protect us from this House, we have no choice but to protect ourselves. For me, I will not go to any police station but waiting to die. Thank you.

Hon. Speaker: Hon. Whip, I think that was on Standing Order No.86n because that was a Personal Statement.

Hon. Members, there is so much. In this County all of you have done a lot of things. You blame each other and call each other names. You even call the Speaker a lot of thing in your WhatsApp. Therefore, the correspondence I have is very clear and simple. Jubilee Party will have to sit down with the Party Leader to deal with this matter.

(Applause)

Before that, this House remains with the same leadership that was there.

(Applause)

I will write to Jubilee Party and we will deal with the matter next week. We will deal with accusation and threats. I also have my own matters, some on my phone. So, before I prosecute, I need to know whether I am a Speaker who is partial for this House as a handshake House or as ODM Speaker or who? With that, the Partly Leader will deal with it.

ADJOURNMENT

Hon. Speaker: The House adjourns to Thursday 4th June 2020. Tomorrow is fumigation.

(The House rose at 4:15 p.m.)