



## NAIROBI CITY COUNTY ASSEMBLY

### OFFICIAL REPORT

#### Second County Assembly – Fourth Session

Tuesday 3<sup>rd</sup> November 2020

The House met at 2.30 p.m.

*[Hon. Speaker (Mr Benson Mutura) in the Chair]*

#### PRAYERS

**Hon. Speaker:** I understand we have quorum. Clerk, proceed.

#### COMMUNICATION FROM THE CHAIR

##### GUIDANCE ON CONSIDERATION OF THE GOVERNOR'S MEMORANDUM ON THE NAIROBI CITY COUNTY APPROPRIATIONS BILL, 2020

Hon. Members, I have the following communication to make:

Hon. Members, as you may recall, during the morning sitting I conveyed to the House the Message on the memorandum of H.E the Governor on the Nairobi City County Appropriations Bill, 2020. This was further to the circulation of the electronic version of the same to all Members of the Assembly having been on short recess.

Hon. Members, while I recognize the import of the Bill to the life of this County, and more specifically to the service delivery to the citizens, this House is bound and guided by the provisions of the relevant statutes and Standing Orders in processing of specific business that comes before this House.

Hon Members, our own case is the Nairobi City County Appropriations Bill, 2020 upon which the Assembly Select Committee on County Finance, Budget and Appropriations has deliberated, compiled and Tabled a report. This is in anticipation for the Committee of the Whole Assembly for consideration of the same pursuant to Standing Order this afternoon.

Hon Members, it is therefore my responsibility to remind and guide the House on the provisions of the relevant statutes and Standing Orders to enable Members make decisions from a more informed position, especially on such a matter that relates to numerical thresholds with relevant consequential

provision Particularly, Standing Order 145 that relates to Assenting to Bills provides as the follows and I quote:

- “(1) The Speaker shall, within fourteen days, forward a Bill passed by the County Assembly to the Governor.*
- (2) The Governor shall within fourteen days after receipt of a Bill -*
- (a) assent to the Bill: or*
  - (b) refer the bill back to the County Assembly with a memorandum outlining reasons for the referral*
- 3) If the Governor refers a Bill back to the County Assembly, the County Assembly may, following the appropriate procedures under this section -*
- (a) amend the Bill taking into account the issues raised by the Governor, or*
  - (b) pass the Bill without amendment.”*

Additionally, Hon. Members, the Assembly Standing Orders provides for the following actions to be taken whenever either of the situations in Standing Order 145(3) above are presented to the Assembly:

Standing Order 145(4) provides that *"If the County Assembly amends the Bill taking into consideration the issues raised by the Governor, the Speaker shall within fourteen days submit the Bill to the Governor for assent"*

Standing Order 145 (5) provides that *"If the County Assembly passes the Bill a second time, without amendment, or with amendments which do not accommodate the Governor's concerns by a vote supported by two-thirds of members of the County Assembly, the Speaker shall within seven days re-submit the Bill to the Governor and the Governor shall within seven days' assent to the Bill"*

Therefore, Hon. Members, I urge you put the foregoing into consideration as the House proceeds with the consideration of the H.E the Governor's Memorandum on the Nairobi City County Appropriations Bill, 2020.

It is so guided. I thank you Hon. Members.

## STATEMENTS

### REQUEST FOR A STATEMENT REGARDING THE FINANCIAL STATEMENT, DISBURSEMENT AND MANAGEMENT OF LAPTRUST FOR THE COUNTY EMPLOYEES

**Hon. Geophrey Majiwa:** Thank you, Mr. Speaker. Pursuant to Standing Order No.45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Labour and Social Welfare regarding the financial statement, disbursement and management of Laptrust for the County employees.

Hon. Speaker, persistent concerns have been raised on the delays in payment of benefits by Laptrust contrary to the terms and conditions between the organization and the County.

Hon. Speaker, allegation that Laptrust is deliberately delaying disbursement of funds to beneficiaries by engaging in risk investments which end up hurting beneficiaries after several years of toil, hard work, savings, and sacrifices

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

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1. Reasons for delays in processing and disbursing benefits to County workers;
2. The terms and conditions given in the agreement contract between the County and Laptrust, and if there is adherence to the same;
3. Whether the investments by Laptrust are viable or put pension funds at risk;
4. The financial statements of Lapfund trust paid for the last two years;
5. Challenges being faced by Laptrust in implementing its policies in Nairobi County;
6. Clarifications in transition from gratuity to pension scheme and its benefits to the Members;
7. Status of remittances by the staff and the Hon. Members; and
8. Brief on policy regarding non remittance.

Thank you.

**Hon. Speaker:** Do we have the Chairperson of Labour? In the absence, the Leader of Majority.

**Hon. Abdi Hassan:** Thank you, Mr. Speaker Sir. I want to undertake that the Committee will give the response in the next two weeks. Hope the Deputy Speaker is okay with it.

**Hon. Speaker:** The Deputy Speaker, are you in agreement?

**Hon. Geophrey Majiwa:** Yes.

**Hon. Speaker:** Thank you. Hon. Members, as we move to the next session, I was trying to confirm with the secretariat and the ICT people that we have 115 Members. So, it will be in order for Members to continue with the next program. Thank you.

### COMMITTEE OF THE WHOLE ASSEMBLY

*(Mr. Speaker left Chair)*

IN THE COMMITTEE

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

CONSIDERATION OF THE GOVERNOR'S MEMORANDUM ON THE APPROPRIATION BILL, 2020

**Hon. Chairperson:** Hon. Members, now we are in the Committee of the Whole Assembly to consider the Governor's Memorandum on the Nairobi City County Appropriations Bill, 2020.

You should be within the following restrictions:

One, I will only give one minute thirty seconds for Members to vote on each reservation.

*Governor's Recommendation to align the Budget in the Bill: [THAT, the budget be rationalized to ensure that the budget is balanced to our projected revenues of Kshs 31,631,632,618.]*

**Hon. Abdi Hassan:** Thank you, Chairperson. I beg to move that the general recommendation be adopted as recommended by His Excellency the Governor.

*(Question proposed)*

**Hon. Chairperson:** Any debate? Hon. Mbatia.

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**Hon. Robert Mbatia:** Thank you, Chair. On behalf of the Committee as the Chair, I request that the County Assembly rejects the Governor's recommendation that the budget be rationalized to ensure that the budget is balanced to our projected revenue of Kshs.31.6 billion. I propose a rejection.

**Hon. Peter Imwatak:** I rise also to support the Chair of Budget and Appropriations. Looking at the recommendation by the Governor, it is not carrying the aspirations of the people of Nairobi. I therefore support that we reject in totality the proposals by the Governor.

**Hon. Chairperson:** Thank you. Anybody else? We will now go to voting, you have one minute thirty seconds.

**Hon. Robert Mbatia:** For purpose of clarity, those that are rejecting the Governor's proposal should vote 'No'. There is confusion in that. So, we should vote 'No'

*(Question put and the Committee divided)*

**Hon. Chairperson:** We are waiting for results from the ICT. I think there was a problem from the ICT and we want a repeat of the voting system. Now, proceed with the voting. I will give you another one minute. Those who are supporting the Governor's reservations to vote 'Yes' and those who are rejecting to vote 'No' I think you have understood.

Please Honorable Members have order, order, please. Now the voting is over, ICT give me the results.

**Hon. Robert Mbatia:** Inaoneshana 'no' has 85%. Speaker this is not correct. On the wall it is very clear 85%.

**Hon. Chairperson:** Do not check what is on the wall, we have the results coming. Just wait for the ICT to give me the results.

ICT, the time is over. Please hand over to the Chair the final voting. Hon. Members, do not forget that we are in the Assembly. I would urge the Members standing to sit down, please.

*(Question negatived by 88 votes or 85%)*

Hon. Members let me give the ICT report, and those of the contrary opinion have taken over, because they have voted 85% for which is 88 votes out of 123.

Clerk proceed.

*THAT, vote 5328: Nairobi Metropolitan Services be deleted in its entirety.*

**Hon. Chairperson:** I propose the question that vote 5328 Nairobi Metropolitan Services be deleted in its entirety. Majority Leader please proceed.

**Hon. Abdi Hassan:** Thank you Chair, I beg to move that vote 5328 be adapted as recommended by H.E the Governor. Thank you Chair.

**Hon. Chairperson.** Thank you, Mover. I propose the question that vote 5328 be adapted as recommended by H.E the Governor. Members debate.

**Hon. Robert Mbatia:** Actually, it is a bit confusing. Bwana chair believes that whatever the Majority Leader says is gospel truth. It is just procedural for him to move what is in paper but this Assembly through the Committee of Budget has also its reservations. So let people not believe what they hear, the

Majority Leader is only doing what is procedural, reading what the Governor had raised in the memorandum but the determination of the Budget Committee is that we reject in totality the Governor's recommendation that vote No. 5328, that is Nairobi Metropolitan be deleted. So I request the Members to vote 'No' for us to retain the vote 5328, the Nairobi Metropolitan Services.

And Mr. Chair, as I support this, I want to say that everyone knows and is supporting Nairobi Metropolitan Services for what they are doing currently and by us deleting this vote will mean that we are not giving them any money, Mr. Chair. So kindly let us support NMS through rejecting the Governor's proposal by voting 'No', thank you Mr. Chair.

**Hon. Chairperson:** Thank you Hon. Mbatia. I put the question that vote 5328 be adapted as recommended by H.E the Governor. I give one minute 9 seconds for voting. Please start now.

*(Question put and the Committee divided)*

*(Question negatived by 92 votes or 88%)*

*THAT, votes 5315 – Health, 5316 – Urban Planning and Lands, 5317 – Public Works, Transport & Infrastructure, 5323 – Environment, Water, Energy & Natural Resources, 5324 – Urban Renewal & Housing be each with two Programmes namely: a. Programme 1: General Administration & Support Services. b. Program 2: Transferred Services.*

**Hon. Chairperson:** I propose the question that votes 5315 that is Health, 5316 Urban Planning and Lands, 5317 Public Works and Transport, 5323 Environment, Water, Energy and Natural Resources, vote 5324 Urban Renewal and Housing be each with two programmes, namely:

- a) Programme 1 – General Administration and Support Services
- b) Programme 2 – Transferred Services.

Majority Leader please proceed.

**Hon. Abdi Hassan:** Thank you Mr. Speaker Sir. I beg to move that votes 5315, 5316, 5317, 5323 and 5324 be adopted as recommended by H.E the Governor, thank you.

**Hon. Chairperson:** I propose the question that votes 5315, 5316, 5317, 5323 and 5324 be adopted as recommended by H.E the Governor. Debate.

**Hon. Robert Mbatia:** Chair I want to request this Hon. Assembly to reject in totality the Governor's recommendation of the five votes being put into two. We reject it by voting No. Thank you.

**Hon. Chairperson:** I put the question that votes 5315, 5316, 5317, 5323 and 5324 be adopted as recommended by H.E the Governor. Now Members, vote. I give one minute for voting, 9 seconds for voting. Proceed.

*(Question put and the Committee divided)*

Hon. Members I think we are done; ICT please produce the voting results to the Chair.

**Hon. Chairperson:** We are waiting for the results.

*(Point of order)*

**Hon. Chairperson:** Under which Standing Order, my brother!

**Hon. Peter Imwatok:** Hon. Speaker, up to date we have never opened the server.

**Hon. Chairperson:** Please do not interfere with the voting. You are breaching the Standing orders and I am warning you and giving you the last warning.

*(Question negated by 88 votes or 85%)*

*The Inspectorate budget*

**Hon. Chairperson:** I propose that the Inspectorate budget allocation to Nairobi Metropolitan Services be deleted and funds be allocated under votes are R5312 programme 0724005310, security and safety management and the amount determined for transfer to appropriate under sub item 2640499. Other current transfers under 2640599 other capital grants and recurrent and capital expenditure respectfully. Majority Leader!

**Hon. Abdi Hassan:** Thank you Mr. Chair, I beg to move that the Inspectorate budget be adopted as recommended by H. E the Governor. Thank you.

**Chairperson:** I propose that the Inspectorate budget be adopted as recommended by H. E. the Governor. Mover!

**Hon. Robert Mbatia:** Thank you Chair, and once again, I want to thank the Hon. Members for the good work done by the committee of Budget and Appropriation and I want to propose that this County Assembly rejects the Governor's recommendation as he has recommended not to allocate money for Inspectorate Services under NMS. Therefore, we reject by voting 'no'.

*(Question put and the Committee divided)*

**Hon. Chairperson:** Please, Members, vote one minutes 90 seconds. Hon. Otieno, we are now voting; no point of order and no interference Hon. Members. The Voting time is over; the ICT please produce the results. The Members are eagerly waiting to see how they have voted.

*(Question negated by 92 votes or 88%)*

Therefore, the NAYS have it. Thank you Clerk proceed!

*Items Referred in Item No 7*

**Hon. Chairperson:** I propose the Question that, in rationalizing the budget, the Items referred in Item No 7 be restored as earlier proposed.

**Hon. Abid Hassan:** I beg to move that the item referred in Item No. 7 be adopted as recommended by H. E. the governor. Thank you.

*(Question proposed)*

**Hon. Robert Mbatia:** Thank you Chair, I propose that this County Assembly rejects in totality the Governor's recommendation to rationalize the budget under item No. 7. Therefore, I request this hon House to vote as it has continued to vote in the past previous four occasions to vote a 'no'.

**Hon. Chairperson:** Thank you Chair. I put the item referred in the item No. 7 be adopted as recommended by H. E. the Governor. Members I ask you to vote. One minute 90 seconds please proceed.

*(Question put and the Committee divided)*

ICT please produce the voting; the Members are eagerly waiting for the results.

*(Question negated by 88 votes or 85%)*

Thank you very much, Hon. Members for voting in this regard. The nays have it having voted 88 Members that represent 85%. I, therefore, declare the nays have it. Proceed, Mover! Can you please give him the mic?

**Hon. Robert Mbatia:** Thank you Mr. Chair and I want to thank also the Hon. Members for a wonderful work done in believing in the Finance Budget and Appropriation Committee and I want to thank the office of the Speaker, Clerk and mostly the honorable Members of the budget committee.

Mr. Chair I also want to thank the honorable Members of the entire House and apart from that, I want to humbly thank our budget office, the fiscal analyst who did very good work. Having said that Mr. Chair I beg to move that the Committee do report to the Assembly its reconsiderations of the Governors reservation on the Nairobi City County Appropriation Bill No. 6 of 2020 and its rejection therefore off without amendments. Thank you Mr. Chair.

**Hon. Chairperson:** Thank you Chair. I put the question that the Committee do report to the Assembly its considerations of the Nairobi City County Appropriation Bill No. 6 of 2020 and its rejection therefore off without amendments.

*(Question put and agreed to)*

*(The House resumed)*

*[Hon. Speaker in the Chair]*

## REPORT

**Hon Speaker:** Order Members! Chair you can report.

**Hon. John Kamangu:** Thank you very much, Mr. Speaker, I beg to report that the Committee of the Whole Assembly has considered the Governor's reservations on the Nairobi City County Appropriation Bill 2020 and rejected the same without amendment. Thank you, Mr. Speaker Sir.

**Hon. Speaker:** Mover!

**Hon. Robert Mbatia:** Thank you, Mr. Speaker, I beg to move that this Assembly do agree with the Committee recommendation in rejecting the Governor's recommendations. Thank you, Mr. Speaker.

*(Question proposed)*

**Hon. Peter Imwatok:** Hon. Speaker, protect me from the Minority Whip Ogeto because I do not know which news he is speaking about. All said and done Speaker, I want to thank you so much for a sober afternoon and more so thank you so much for the leadership of the political side both the Majority side and Minority side.

Hon. Speaker, when we passed the Appropriation Bill it is on the record that I said we expect a memorandum to come before this House. But I am very much delighted that across the political divide the Majority side knows what we want to achieve and the Minority side also knows what we wanted to achieve in that Appropriation Bill.

That whoever in this Country may want to disobey what the people of Nairobi wants I believe now they have seen the hands of time. For some of us it has being a long journey from September when we

were asked, I said and I quote “the plane must land” some took us as a joke. Now it is time that Nairobian see that 123 honorable Members logged in and the entire ODM fraternity and the entire Jubilee fraternity have logged in, to pronounce themselves on the interest of Nairobian.

Secondly, Speaker, it is time that we give a thumbs up to the entire Members but also a warning shot, that this is only the beginning to redeem Nairobian from the claws of gimmicks and games that are undefined in life. I understand that today we have given NMS them funds but let it also be on their ears that we are on a lookout that our wards need development and it will not compromise especially on our wards.

We are asking NMS to put its house in order. This morning when the Leader of Minority called me to a meeting, there was a question which was raised, that NMS does not respect honorable Members especially the elected ones who want to know the programmes and projects that are in their wards. Some of us will not be scared to speak the way it is and we will face the monster as it is. We want respect to our leaders and we get what we want.

Secondly Mr. Speaker, this is a time that you know your friends. In friendship you don't go with a friend who you know very well you will float. And a horrible Governor must learn from this; that leadership is God given and you receive according to how you give to others. Some of us have not experienced any good development for three good years. Simply because we do not know the route to Upper Hill, we do not know how to fly with the Executive and we do not know how to beg the Executive.

There was a time me and the Majority leader were put on three daily newspapers full page because we questioned the rationale upon which the funds were spent with no development. We will question the NMS with the same vigour because we are giving them money to develop our Wards.

Hon. Speaker, the County Government of the day has failed to absorb itself to the reality of the times. But we won't force them because the level of understanding differs. May be some from where they come from – Chair Mbatia can understand *kwa lugha ya mtaa tunawaita weri ama gumba*. That you come and get lucky, and swim on the luck without understanding how this city was and where you want to take it. We pose the same understanding to the NMS if they do not do what Nairobian want. For the last eight months or so NMS has done a fantastic job.

I watched the Director General on Citizen TV, he was very calm explaining how *chokoras* can be employed to work for Nairobian. That was a plus. I think in the history of this county there are two people who have made an impact since devolution; one is the General and the other one is you Mr. Speaker. In this county apart from the City Stadium, you are the one who came with the project of Camp Toyoyo, the first ever stadium with a tough, I have seen another one up to date. The other stadium that we have is Dandora, the dust is still rolled on the sides because it became a conduit of corruption. But yours you rolled it up until now it needs to be replaced again.

Basically when you are given a position in leadership, do something that can impact the generations to come. The Major General will impact us because today as I was driving to Hurlingham, I could see the cabros. This is a city we need those things. Today if you go to Makadara, people still remember Hon. Benson Kangara because he played his role well. He made an impact then.

Therefore, I respect the Majority and the Minority Leaders and all the leaders here you are making an impact today. No one should say that members are called and given Kshs. 20,000/= or Kshs. 30,000/= or a trip, that is not the way to go. We believe as a leadership under your guidance Mr. Speaker, we will hold our hands together. We are asking the other outside forces to please give the President ample time to serve the people of Nairobi, give the Prime Minister a chance to support the President. All the 51 members of the ODM have voted 'No' to reject this unorthodox way of dictating to people to do the wrong thing.

As the Minority Whip, my leader will speak but I believe what we have done is politically right for our people because we are politicians. Politicians will always define what they get when, how and where. Chair Mbatia if I go to your Ward and see the same field that you built during Governor Kidero's time is the same, nothing new has happened - happily, I saw that next to Kariobangi you are making a road - that is a plus through the NMS and we appreciate.

I walked to the Minority Leader's Ward last week and he told me much is being done in his Ward. I talk much but I am a very happy man, September last year has been a journey and we are almost there. I can guarantee them that we are almost there, the plane must land. Thank you.

**Hon. Robert Mbatia:** Thank you Mr. Speaker. As I rise to thank the entire assembly and to propose that we adopt this report of this House, I am a bit worried by Hon. Imwatok's knowledge of my area. He knows what I am doing at every point. I am worried if he wants to vie for the MCA of that area. If he wants the Governor's seat, I will give him my support.

Mr. Speaker I want to thank your office because I might not get another chance to stand here again on the Governor's memorandum, to thank your office because of the support you have given us. You have facilitated us to this point. I want to thank your office through the Clerk because of facilitating us and also our able Fiscal Analyst whom you have assigned to our committee. I want thank them all for the wonderful work they have done and also the 25 members of the committee. Some were unwell and out of Nairobi but they came in order for us to make recommendations and determine the Governor's memorandum.

I also want to thank the entire assembly, the honorable Members, for the way they have voted. This shows a lot of willingness to support the truth against half-truths, Mr. Speaker. I want to thank the minority side which should be opposing has supported us in totality.

*(Applause)*

Mr. Speaker, on the government side there were some doubts but the members have shown that they are willing to support the truth against half-truths. I want to request on behalf of our committee that let this not be construed as a contest between the Governor and the assembly or the Governor versus the NMS or the Governor and the President. In this contest Nairobians have won. I call this a contest of truths and half-truths.

Mr. Speaker, I know there is something that is very close to the member's hearts; that is the WDF/WDP projects. These projects were illegally placed under the Governor's Office and at this point when we place them under Nairobi Metropolitan Services, we do so because, one, they were projects and two, the Public Works is a transferred function.

Having said that, Mr. Speaker, of all the projects that were lined in this appropriation, 88 are under WDF. And 83 of them which is 94% are under those transferred functions. Only five are for the remaining functions with the County Executive. By us transferring them there, which sin did we do? We are only facilitating and easing project implementation, Mr. Speaker.

Mr. Speaker, as I wind up, I want to request the current leadership under your leadership Mr. Speaker that there has been a promise for a Liaison Office between the Nairobi Metropolitan Services and the County Assembly. His is a high time that this is put in place because I know that this Bill will be published and gazetted as all the laid down procedures have been followed. I have no doubt that this Bill will be in place, the budget will be uploaded into the IFMIS system and from there we need the implementation. As representatives, we need that liaison office. It is upon you and the leadership to make sure that this Liaison Office is established. Thank you Mr. Speaker.

**Hon. Deputy Speaker:** Thank you Mr. Speaker. I also want to take this earliest opportunity to support the members for this bold step to ensure that we have things working. Mr. Speaker many may not be aware that the assembly has been operating on a vote of account for the past few weeks which is completely exhausted and It is just a matter of time and everything will grind to a halt. The decision we have taken in this assembly I think it is a win-win situation for all of us even for our friend the Governor who might feel that he wanted more and has not gotten enough. He still has a room to come to us with a supplementary budget and we will look at it objectively and give him what he deserves.

I want to urge the participants in the budget process to ensure that things are fast-tracked so that we do not glide to a halt. Thank you Mr. Speaker.

**Hon. Speaker:** Hon. Members, I don't see any other requests. Therefore, I put the question.

*(Question put and agreed to)*

### ADJOURNMENT

**Hon. Speaker:** Hon. Members, there being no other business, the House stands adjourned to Thursday 5<sup>th</sup> of November 2020 at 2.30 p.m.

**The House rose at 4.50 p.m.**