

**MOMBASA COUNTY ASSEMBLY****HANSARD REPORT**Wednesday, 29<sup>th</sup> June, 2016

The House met at 2:43p.m.

*(Mr. Speaker (Hon. Thadius Rajwayi) in the Chair)***PRAYERS****Mr. Speaker** (Hon. Rajwayi): Hon. Members have your seats.**REPORT****MOMBASA COUNTY BUDGET ESTIMATES FOR 2016/2017**

Yes Hon. Hamisi Mwidani.

**Leader of Majority** (Hon. Mwidani): Thank you Mr. Speaker for giving me this opportunity so that I can table the report of Mombasa County Budget Estimates for 2016/2017.*(Interruption)***Mr. Speaker** (Hon. Rajwayi): First of all Hon. Mwidani you have tabled this particular report but I need confirmation of this whether it is the report from the Committee on Finance pursuant to Standing Order 207 (6) Hon. Mwidani.**Leader of Majority** (Hon. Mwidani): Yes Mr. Speaker the Committee on Finance, Budget and Appropriations is the one dealing with this docket.**Mr. Speaker** (Hon. Rajwayi): Yes any secondment? Hon. Kondo.**Hon. Ibrahim Kondo**: Thank you Mr. Speaker sir I stand to second Chairman of Finance, Budget and Appropriations Hamisi Mwidani.**Mr. Speaker** (Hon. Rajwayi): I want to believe that you had seconded the report, now I propose that this County Assembly adopts the report on Budget and Appropriation Committee on the budget estimates for the County government and the County Assembly tabled in this County Assembly on the 29<sup>th</sup> of June 2016.*(Question proposed and agreed to)***NOTICE OF MOTION**

Hon. Mswabah Rashid?

**Deputy Speaker** (Hon. Mswabah Rashid): Thank you Mr. Speaker Sir for giving me this opportunity to read this Notice of Motion on Painting of Tusks adjacent to Uhuru Gardens.*(Deputy Speaker (Hon. Mswabah Rashid) moved the Notice of Motion)***PAINTING OF TUSKS ADJACENT TO UHURU GARDENS**

Mr. Speaker sir, I beg to give notice of the following Motion:

THAT AWARE that the famous decorative elephant tusks on Moi avenue, Mombasa are an important county Landmark and part of our historic heritage;

FURTHER AWARE that the decorative elephant tusks were erected way back in 1953 to commemorate the crowning of Her Majesty Queen Elizabeth II of United Kingdom who was then the sovereign ruler in Kenya.

CONCERNED that since their construction the metal plates have been depreciating and there is need to paint them regularly to maintain them and preserve this important county and national landmark.

I therefore urge the county assembly to RESOLVE that:

The County government to annually paint the landmark decorative tusks on Moi avenue, Mombasa and replace any worn out metal plates to preserve this important piece of our County and national heritage.

Thank you.

**Mr. Speaker** (Hon. Rajwayi): Yes Hon. Mswabah when do you want to table this as a Motion?

**Deputy Speaker** (Hon. Mswabah Rashid): Hon. Speaker I would like to table it tomorrow afternoon.

### MOTION

**Mr. Speaker** (Hon. Rajwayi): Yes Hon. Nyamvula.

**Hon. (Mrs.) Nyamvula**: Thank you Mr. Speaker, I wish to be given an opportunity to move the Motion on behalf of the Finance Committee.

**Mr. Speaker** (Hon. Rajwayi): Remember Hon. Mwidani did seek leave, he is away on matters concerning the party because he already tabled it and already this particular report is adopted in the House as it is. Yes Hon. Murfad?

**Hon. Amur**: Hon. Speaker it's not about the budget but I want to seek leave to bring a Motion, if am allowed by your Chair.

**Mr. Speaker** (Hon. Rajwayi): I want you to reaffirm on the same position.

**Hon. Amur**: No Mr. Speaker I want to move another Motion, I will wait for you to allow me pursuant to Standing Order 49 (e), if you allow me I can read it.

**Mr. Speaker** (Hon. Rajwayi): Maybe we consider that after considering the Motion before us which is actually the report, any submissions on the report? I want to confirm do we agree that we consider the report by the Finance Committee....

*(Question put and agreed to)*

Yes Hon. Amir Thoya.

**Hon. Thoya:** Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika kama kiongozi, miongoni mwa viongozi wa serikali hii yetu tukufu, tumeweza kudadisi ripoti ya Kamati ya Fedha hasa hasa nikiweza kuzingatia makadirio ambayo yalikuwa yametoka kwa *executives* na pia tulipata nafasi ya kuzungumza na kila idara zetu kumi za serikali ya Mombasa na tukaweza kuangalia zile sehemu ambazo tulikuwa tunahisi kama Bunge zinahitaji marekebisho tukaweza kufanya marekebisho na leo asubuhi tulikuwa katika ukumbi wa Tononoka ili kupatia nafasi wananchi vile vile waweze kuangalia kama kunaweza kuwa na marekebisho yoyote Ili tuweze kuja kuipitisha katika Bunge hili. Mheshimiwa Spika yale ya msingi yaliweza kutekelezwa, katika *executive* pia yaliweza kutekelezwa na wananchi vile vile waliweza kupatiwa nafasi ya kuweza kuangalia sehemu hii ya bajeti ili kama kuna mapendekezo yoyote waweze kuyaleta na tuweze kuangalia yaweze kudumishwa namna gani katika bajeti yetu. Vile vile mwenyekiti ambae alikua pale aliweza kuwapatia nafasi na kuwaambia kwamba kama kuna mapendekezo yoyote ambayo yametolewa bado mlango wa kuweza kuyaangalia uko wazi wanaweza kuyaleta katika Bunge ili tuhakikishe kwamba maoni yao pia yameweza kudumishwa. Kwa hio zaidi Mheshimiwa Spika ni kwamba yale ya msingi yote ya sheria yameweza kutekelezwa na ripoti hii iko tayari kuweza kujadiliwa na kupitishwa katika Bunge kama hili, kwa hivyo la muhimu ni kuomba wenzangu, kwa sababu ripoti hii ni muhimu kwetu kama serikali waweze kujadili na ikiwezekana ipitishwe. Ahsante.

**Mr. Speaker** (Hon. Rajwayi): I was really expecting that when Hon. Hamisi Mwidani is out Hon. Nzai Muniyika was supposed to be in the House, to take us through introduction to the end, in the list Hon. Mwidani is not in, Hon. Nzai not in Hon. Abdallah Kasangamba not in.

**Hon. (Mrs.) Nyamvula:** Mr Speaker Hon. Mwidani recommended me to take this through so am a Member am asking for your direction.

**Mr. Speaker** (Hon. Rajwayi): You know our Standing order is very clear if the Chair is not around the vice takes over, if he is also not around any Member can take over so Hon. Nyamvula you are very much in order.

*(Hon. (Mrs.) Nyamvula moved the Report for FY 2016/2017 Budget, Finance and Appropriation Budget estimates)*

**Hon. (Mrs.) Nyamvula:** Mr. Speaker Sir this is the Report of the Committee on Budget, Finance and Appropriation, budget estimates 2016/2017.

Members are;

Hon. Hamisi Mwidani	Chairman
Hon. Karisa Nzai	Vice
Hon. Abdallah Kasangamba	
Hon Riziki Fundi	
Hon. Beatrice Nzai	
Hon. Caroline Owino	
Hon. Khamis Mwachashiri	
Hon. Jabess Oduor	
Hon. Mohammed Chiro	
Hon Mswabah Rashid	

Hon. Nasser Rashid  
Hon Serah Nyamvula  
Hon Tom Oluoch  
Hon. Paul Onje

Committee Staff is Abdallah Khamis

## **1. Introduction**

Mr. Speaker Sir and Hon. Members, I am pleased to present to you a brief report on the budget estimates of the County Government of Mombasa for the Fiscal Year 2016/2017.

The County Government is planning to spend Kshs. 9,925,754,293. 00 to finance its operations and developments across all wards in the next financial year 2016/2017.

The budget estimates were tabled before the Assembly on the 29<sup>th</sup> April 2016.

This report is before the County Assembly pursuant to Section 131 (1) and (2) of the Public Finance Management Act which provide that:

The County Assembly shall consider the County government budget estimates with a view of approving them, with or without amendments, in time for the relevant Appropriation Law and any other laws required to implement the budget to be passed by the 30<sup>th</sup> June 2016. Mr. Speaker Sir, sub section 2 of the above mentioned section provides that before the Assembly considers the estimates of revenue and expenditure, the relevant Committee which in this case is the Committee on Finance, budget and Appropriation shall discuss and review the estimates and make recommendations to the Assembly, and in finalizing the recommendations to the county Assembly, the Committee shall take into account the views of the County Executive Committee member for Finance and the public. Mr. Speaker Sir the above provision made it necessary for the Committee to scrutinize the estimates and also conduct a public participation in accordance with Article 196(1)b of the Constitution, Section 131(2) of the Public Finance and Management Act 2012 and Standing Order no. 121(3) of the County Assembly. The Committee advertised the public participation on the 22<sup>nd</sup> June 2016 in the Standard newspaper and in the advertisement the public participation was to take place on Monday 27<sup>th</sup> June 2016 at Tononoka Social Hall from 9:00a.m to 12:00p.m. The same advertisement was run in Radio Maisha and KBC radio stations which are transmitted nationally from the 21st June 2016. Mr. Speaker Sir, on the date of the public participation there were difficulties which the Committee experienced as some of the Departments from the executive had not yet clarified on issues raised on their budget estimates and the members of the public on their part did not sign the attendance register and hence the Committee agreed to reschedule the meeting to Wednesday 29<sup>th</sup> June 2016 at Tononoka Social Hall from 9:00a.m to 12:00p.m. Mr Speaker Sir the rescheduling was advertised in the Standard and Star Newspapers dated 29<sup>th</sup> June 2016 and the airing of the advertisements in the radios was also done. The public were therefore informed of the public participation exercise. This report is highlights of contents of the proposed budget estimates. It is based on the Committee's own observations, analyses from the County Assembly's Budget Office and the views of the CEC Finance and the public.

## **2. Observations and Findings**

### **A) Legal Basis for Budgetary Preparation and Enactment**

- 2.1 County government budgeting is derived and based on a host of legislation which should be read and interpreted together holistically to arrive at a multi-dimensional framework. The following laws of Kenya form the bedrock of county government budgeting:
- a) Section 131 of the County Governments Act, 2012 points to a law on public finance that shall be the basis for county government funding, financial management and budgeting. Part XI of the same law divided into several sections provides a basis for planning including integrated development planning which is at the core of annual and medium term development budgeting.
  - b) The law envisaged by 131 of the County Governments Act, 2012 is the Public Finance Management Act, 2012 which deals extensively on matters of financial management and budgeting including budgetary timelines and the preparation of programme based budgeting vide section 12 of the Second Schedule to the Act. It also in section 131 clearly stipulates the timelines within which the budget estimates and the subsequent Appropriation law must be enacted i.e by 30<sup>th</sup> June of every year.
  - c) Other laws which are applicable to county government budgeting include the constitution vide article 201 on principles of public finance and the County Allocation of Revenue Act 2016. Furthermore, the budgets are regulated by ceilings imposed by the Commission on Revenue Allocation, circulars from the Transition Authority, National Treasury, and Commission on Revenue Allocation and by the internal Appropriation Acts enacted annually.

**B) Compliance to Legislation**

Mr. Speaker Sir, the County Government budget estimates have complied with the laws cited in the following manner and a few highlights will be mentioned here:

- a) The draft budget estimates were submitted within the statutory timeline which requires that they be submitted to the county assembly before 30<sup>th</sup> April of every year. As earlier mentioned it was formally tabled before the Assembly on the 29<sup>th</sup> April 2016 ;
- b) The budget has been prepared in a programme based budget format as per section 12 of the Second Schedule to the Public Finance Management Act, 2012. In addition Transition Authority Circular dated 12<sup>th</sup> March, 2014 (Ref. TA/7/5/Vol. II) stipulates compliance with the same;
- c) Adherence to constitutional principle of public participation and section 131 of the Public Finance Management Act 2012, the proposed budget estimates for 2016/2017 were submitted by the County Assembly to the public for their views made by the county assembly through a public participation forum at Tononoka Hall on 29<sup>th</sup> June 2016.
- d) The requirement of the Public Finance Management Act, 2012 vide section 107 (2) that at least 30% of County Government spending estimates be allocated to development expenditure. This has been met since about 32% of the budget estimates will be channeled to development.

**c. Public View**

Mr. Speaker Sir and Hon. Members of this Assembly, the Committee on Finance, Budget and Appropriations subjected this document to public participation. Sufficient notice was issued from the 21<sup>st</sup> June, 2016 and attendance register was signed by the participants on the day of the forum i.e. 29<sup>th</sup> June, 2016 and the only concern that was raised by the majority of

the members of the public is that sufficient notice of seven days ought to have been issued. And Mr. Speaker Sir we have documentary evidence that sufficient notice was issued. The members of the public did not raise any concern in regard to the budget estimates 2016/2017.

### **1. Conclusion**

(a) The budget estimates need to be approved by this Assembly in time to enable the processing of the Appropriation law.

### **2. Recommendations**

(a) The Committee recommends that approves the proposed budget estimates.

(b) The County Assembly to consider and adopt this report.

Signed, by Hon. Hamisi Musa Mwidani, Chairman of Finance, Budget and Appropriation.

Dated: Wednesday 29<sup>th</sup> June, 2016.

Thank you.

*(Applause)*

**Mr. Speaker** (Hon. Rajwayi): Any comments concerning that? Yes Hon. Ibrahim Kondo?

**Hon. Ibrahim Kondo:** Thank you very much Mr. Speaker I just want to second the Motion.

*(Question proposed)*

**Mr. Speaker** (Hon. Rajwayi): Yes I now propose a question in this Hon. House to consider this particular Motion brought by Honorable Serah Nyamvula.

*(Question put and agreed to)*

*(Applause)*

Any submissions? Am asking Hon. Nyamvula to confirm part (c) in the third line is it 21<sup>st</sup> June, 2016 or 22<sup>nd</sup> June, 2016. Hon. Nyamvula can you confirm part (c) the third line is it 21<sup>st</sup> June, 2016 or 22<sup>nd</sup> June, 2016? Can you confirm that date?

**Hon. (Mrs.) Nyamvula:** Which part is it Hon. Speaker?

**Mr. Speaker** (Hon. Rajwayi): The third line of part (c).

**Hon. (Mrs.) Nyamvula:** Mr. Speaker I wish to confirm that it is an error it should be 21<sup>st</sup> June, 2016.

**Mr. Speaker** (Hon. Rajwayi): Is it 21<sup>st</sup> or 22<sup>nd</sup> June, 2016? Can you consult before it goes into the Hansard because it may affect the outcome so can you confirm please? The other document that am having reads 22<sup>nd</sup> of June, 2016 confirm again.

*(Consultations)*

As she confirms can we continue. Yes Hon. Murfad.

**Hon. Amur:** Thank you Mr. Speaker i would like to seek leave to move a Motion...

*(Interruption)*

**Mr. Speaker** (Hon. Rajwayi): Resume your seat Hon. Murfad...

*(Interruption)*

**Hon. Amur:** I have... am requesting to move a Motion.

**Mr. Speaker** (Hon. Rajwayi): Hon. Murfad just have your seat when we are through with this you will be get an opportunity.

*(Consultations)*

We can continue, do you have a response to that Hon. Kondo.

**Hon. Ibrahim Kondo:** Yes I have Mr. Speaker Sir it is supposed to be 21<sup>st</sup> June, 2016 not 206 it is an error it is 2016.

**Mr. Speaker** (Hon. Rajwayi): Yes any other if there's none now I proceed to put a question that the report on Mombasa County Budget Estimates 2016/2017.

*(Question put and agreed to)*

Yes Clerk.

**Hon. Amur:** Mr. Speaker Sir....

*(Interruption)*

**Mr. Speaker** (Hon. Rajwayi): Hon. Murfad you are not the Clerk. Yes Clerk.

## **BILLS**

We are on Bills Clerk, Hon. Amur Murfad you can continue.

**Hon. Amur:** Thank you Mr. Speaker Sir for giving me this opportunity I want to move a Procedural Motion under Standing Order 49 (e) allow me Mr. Speaker...

**Mr. Speaker** (Hon. Rajwayi): You mentioned Standing Order Number 44?

**Hon. Amur:** 49 (e).

**Mr. Speaker** (Hon. Rajwayi): 49 (e), yes continue?

**Hon. Amur:** Mr. Speaker Sir I wish to move a Procedural Motion.



*(Hon. Amur Moved a Procedural Motion)*

**SUSPENSION OF HON. MEMBERS**

THAT AWARE that some Members were suspended from the County Assembly through your directive.

FURTHER AWARE that the suspension was of the indefinite period contrary to the provisions of Standing Order 105 and 109 which talks about matters of suspension of Members.

CONCERNED THAT the suspension of Members is against and violation of human rights.

NOTING THAT indefinite of suspension of the Members is not provided for in the Standing Order or any other law directing to that effective suspension.

I urge that Mombasa County Assembly resolve that the County Assembly to reinstate the County Assembly Members in the County Assembly and restore them fully.

Thank you.

**Mr. Speaker** (Hon. Rajwayi): I want to inform you that me as the Chair you were not in last week when the issue was raised by Hon. Mary seeking for the extension of the matter by the Committee on Powers and privilege, and the deadline is actually tomorrow as it required you don't even need to move a Motion for that so it is automatic if there's no any considerations from that Committee that they know they will resume the sittings automatically that's one; two issues that you have raised in fact that is actually saving the situation that giving 12 months the way Hon. of Ugenya, I want to believe from National Assembly was suspended and the matter resumed after one month which is a direct penalty so as a Chair you can direct penalty like that for a Hon. Member to be heard by a Committee. So as it is the request remain as it is tomorrow.

**Hon. Amur:** Mr. Speaker my worry was that if the report is tabled tomorrow and they have not been given a chance to defend themselves... I agree they will table a report tomorrow....

*(Interruption)*

**Mr. Speaker** (Hon. Rajwayi): Order Hon. Murfad resume your seat don't pre-empt anything that the Committee has not tabled and if you have anything to that except, that's way this is a House of procedures and rules anything that you will want will be decided and you have been given as far as tomorrow so you will be given yours so I have been given a ruling. Yes next.

**ADJOURNMENT**

Ladies and gentlemen this House stand adjourned until tomorrow Thursday 30<sup>th</sup> June, 2016 at exactly 2:30p.m.

The House rose at 3:19p.m.