



COUNTY ASSEMBLY OF MOMBASA

OFFICIAL REPORT

Wednesday, 26th August 2020
The House met at 2:42p.m.

[The Deputy Speaker (Hon. Fadhili Mwalimu) in the Chair]

PRAYERS

The Deputy Speaker (Hon. Fadhili Mwalimu): Have your seats. Yes Clerk?

COMMUNICATION FROM THE CHAIR

QUARTERLY REPORTS AND FINANCIAL STATEMENTS FROM THE COUNTY EXECUTIVE

Hon. Members, the County Assembly is in receipt of the following three Reports from the County Executive Committee Member (CECM) Finance; quarterly Reports and financial statements for the year ended 31st December, 2019, quarterly reports and financial statements for the year; for the financial year 31st March, 2020 and quarterly reports and financial statements for the financial year ended 30th June, 2020. The Reports are hereby committed to the Committee on Finance, Budget and Appropriations. Yes, Clerk?

PROCEDURAL MOTION

RESUMPTION OF INTERRUPTED BUSINESS ON APPROVAL OF THE LIST OF MEMBERS NOMINATED BY THE COUNTY ASSEMBLY PARTIES AND RECOMMENDED BY THE COMMITTEE OF SELECTION TO THE COUNTY ASSEMBLY SELECT AND SECTORAL COMMITTEES

Yes Hon. Hamisi Musa Mwidani.

[Interruption]

Hon. Kitula: Point of Order Mr. Speaker!

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes, there is a Point of Order, what is it?

Hon. Kitula: Mheshimiwa Spika nafikiri Kiti chako kina nguvu zaidi na jinsi utaratibu wa Bunge hili unavyolipeleka itakuwa sio sawa kabisa. Mimi nimeuliza Taarifa namba saba, nane na tisa.

Hapo moja kwa moja munastahili munikabidhi mimi Ripoti hizo, haiwezi kuwa Ripoti imetoka kutoka kwa CEC Finance ni Ripoti ambayo ni *Statement*. Mimi nime *seek* kutoka kwa Kamati ya Fedha inipatie mimi majibu si kuitisha Ripoti, Mheshimiwa peleka Bunge inavyostahili kutumia Kiti chako, tafadhali.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula be patient my friend, my brother because we are yet to reach Statement hour and I am sure Hon. Kitula whatever that you had asked for will be responded by the responsible person but you are aware there is a business that was to resume, the issue on Procedural Motion on Committees so it has to take precedence and it has to be prioritized so that we finish with it then we proceed with our normal businesses.

Hon. Kitula: Ahsante sana Mheshimiwa Spika. Nilikuwa nimeelewa vibaya kwa sababu Katibu nimeona amesoma tu orodha namba kumi na kuruka saba, nane na tisa. Ahsante Mheshimiwa Spika na pole kwa hayo.

The Deputy Speaker (Hon. Fadhili Mwalimu): Thank you. Yes Hon. Hamisi.

The Leader of Majority (Hon. Mwidani): Thank you. Let me move a Procedural Motion;

THAT pursuant to Standing Order number 191, this House resolved or approved the list of Members nominated by the County Assembly parties and recommended by the Committee of Selection to the County Assembly; Select and Sectoral Committees.

And I would like Hon. Amriya to second my Motion.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Amriya?

Hon. Amriya Juma: I rise to second Mr. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): I now propose a question that the Procedural Motion as moved by the Leader of Majority be debated and approved by this Honourable House.

[Question proposed and agreed to]

The Leader of Majority (Hon. Mwidani): Mr. Speaker I wish to move the amendment which says that;

1. To remove Hon. Fadhili Mwalimu Makarani on the Committee on Trade, Tourism and Investment and replace him with Hon. Mary Naliaka.
2. Pursuant to Standing order 46 Sub Section (2a) to remove Hon. Lucy Chizi Chireri from the Committee of Implementation and replace her with Hon. Athman Mwamwiri.

Thank you. Mr. Speaker now I will like also Hon. Boy to second.

The Deputy Speaker (Hon. Fadhili Mwalimu): Just a moment.

[Consultations]

Yes Hon. Amriya.

Hon. Amriya Juma: I rise to second.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Members, I now stand to put a question that the Motion as amended by the Leader of Majority Hon. Hamisi Musa Mwidani be approved in this Honourable House.

[Question put and agreed to]

Yes, Clerk?

STATEMENTS

RESPONSE TO STATEMENT BY CHAIRPERSON COMMITTEE ON FINANCE, BUDGET AND
APPROPRIATIONS HON. MOHAMED HATIMY ON SUBMISSION OF FOURTH QUARTER
IMPLEMENTATION REPORT FOR THE FINANCIAL YEAR 2019/2020

Yes Hon. Mohamed Hatimy, Chairperson Committee on Finance, Budget and Appropriation respond to the Statement.

Hon. Mohamed Hatimy: Thank you Mr. Speaker. Mr. Speaker and Hon. Members I wish to give a Statement in response to issues raised by Hon. Charles Kitula in this House on 11th March, 2020 as follows:

The Mombasa County Finance Bill, 2019 was submitted for public participation, first by the County Executive at Tononoka Hall and by the County Assembly on 31st October, 2019 in the various locations in the six Sub Counties in Mombasa.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Hatimy you are supposed to respond on submission of report of financial year 2019/2020 fourth quarter implementation. The report that you are reading is in the next order.

Hon. Mohamed Hatimy: Mr. Speaker Statement number seven is submission of the Report of 2019/2020 of the fourth quarter implementation. Mr. Speaker the Reports were forwarded to the Clerk and I want to say that Section 166 of PFM Act is very clear, they still do have time to submit this Report because they have 15 days to consolidate the Report and they have one month to submit the Report, but the Report is already with the Clerk and am sure Mr. Speaker you can check with the Clerk and you will get the Report. This is the submission of the Report 2019/2020.

The Deputy Speaker (Hon. Fadhili Mwalimu): Okay Hon. Hatimy just move to the Table Clerks so that we clarify what you are saying.

[Consultations]

Hon. Mohamed Hatimy: Thank you Mr. Speaker. Mr. Speaker quarterly Report was submitted to County Assembly Clerk on 1st December, 2019, then we do have the third was submitted on 15th April and the last one which is in the paper it is already with us here it was submitted on 24th August, 2020. I do have all the Reports Mr. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Kitula any issue from the response?

Hon. Kitula: Ahsante Mheshimiwa Spika, nimeskia maneno ya Mheshimiwa wa Kamati ya Fedha na nashukuru pia Makatibu waliweza kumpatia mwelekeo kitu gani kinahitajika hapa. Hapa ni *fourth quarter implementation* chini ya Section 166 ya sheria ya PFM Management Act, inaeleza kwamba kila baada ya robo mwaka inapatiwa mda wa mwezi mmoja, CEC wa Fedha aweze kuleta katika Bunge hili Ripoti ya jinsi ya matumizi ya pesa ilivyotumika katika serikali yetu ya Mombasa Mheshimiwa Mwenyekiti.

Nashukuru Mheshimiwa wa Fedha *first quarter* alifanya jukumu lake kikatiba kabisa na kuweza kutuletea, niko na *copy* mpaka leo, ya *first quarter* ililetwa Bunge ndio hii hapa sasa nilitarajia siku ya leo pia niweze kupatiwa *fouth quarter* ya *copy* kama hii. Kwa hivyo nahitaji tu stakabadhi kama hii ya kutoka kwa *Executive* niweze kujibu, niweze kuendelea na kuangalia jinsi pesa zinavyotumika katika serikali yetu ya Mombasa sababu ni *fourth quarter* tu, *first quarter* niko nayo tuliipata hapa Mheshimiwa Hatimy alituletea kwa hivyo nashukuru, robo ya pili na tatu hakuleta na ya nne ilikuwa inastahili kuja July 31st, ila mpaka saa hii haijakuja. Kwa hivyo mimi nataka stakabadhi kama hii tu, niweze kushukuru, ahsante.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes, Hon. Mohamed Hatimy.

Hon. Mohamed Hatimy: Mheshimiwa *quarterly Reports* zinakuja kwa ofisi ya Katibu wa Bunge, haziji kwangu mimi moja kwa moja, hizi Ripoti zinaonekana zimepokewa; moja imepokelewa Januari 2020, ya pili ikawa imepokelewa April 15th na ya tatu imekuwa 24th Agosti. Mheshimiwa Spika hizi zimekuwa *committed* kwa Kamati hivi sasa kwa hivyo kama atahitaji *copy* kupitia Kiti chako naomba umwambie aende kwa Katibu wa Bunge akaulizie *copy*, zote zimekuja...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Hatimy now that you have the document with you, can you assure the Honourable House and the Hon. Member when are you going to submit whatever that he wants from that document? He has shown that it is just one paper from that document, now that it has been submitted to you we understand you have to sit with it as a Committee, but assure this House when are you going to deliver whatever Hon. Kitula is asking for?

Hon. Mohamed Hatimy: God willing by Tuesday next week Hon. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Okay yes Hon. Kitula what is it?

Hon. Kitula: Mheshimiwa Spika unajua hii iko na *timeline* na wiki ya jana nafikiri Katibu wa Bunge atatupatia mwongozo...

Alitoa uamuzi kwamba iweze kuwa *tabled* leo na tayari tumekuwa kwa sheria kuwa ikuwe *tabled* 31st na kama yuko nayo pale ina ugumu gani yeye kuileta hapa tungeweza kupata *copies*? Tayari uamuzi ulitoka wiki ya jana Mheshimiwa Spika, Spika akaweza kusema kwamba kufikia leo Jumatano iweze kuletwa, tena leo tayari tumekeuka sheria kufikia 31st Julai, alafu leo pia anaomba mda mwingine wakati uamuzi ilikuwa imeshatoka. Sasa Mheshimiwa Spika nashindwa, kama yuko nayo pale aniambie tu anipatie mimi nitaweza kushukuru tuendele na biashara nyengine.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula I think in my communication, I communicated in this Honourable House that we have received the same document to my office, the office of the Speaker and I have committed the Reports to the Committee, so as the Hon. Member is asking for some few days and he has promised that by Tuesday you will have that document, so let us give the Hon. Member until Tuesday next week, so that he delivers the document to you.

Hon. Kitula: Ahsante Mheshimiwa Spika, naheshimu maamuzi yako lakini ni kama nadanganywa wakati tunaenda mapumzikoni kulingana na kalenda yetu kwa hivyo tayari tumekiuka sheria, lakini ukiniambia kufikia Jumanne utakuwa umenidanganya kwa sababu itakuwa hatuko Bunge, kulingana na kalenda yetu.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula the Assembly going to recess does not mean that the Assembly is not working or the Committees are not going to meet, so just wait for next week Tuesday; if he does not present to you the document, so it is when we come back to this Honourable House then you will have a say in this Honourable House, that the Committee went against the directive of the Speaker.

Hon. Kitula: Mheshimiwa Spika nashukuru kwa maamuzi yako lakini stakabadhi hii sistahili kuwa nayo mimi kama Kitula, ni stakabadhi ya Bunge inastahili kuwa *tabled* katika Nyumba na *deadline* ishapita. Kwa hivyo sijajua kitu gani kinamfanya yeye ashindwe kuileta stakabadhi hii kwa Nyumba? Kwa sababu rasmi inastahili kuletwa hapa Bunge...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula it is simple and the Hon. Members we committed the documents to that Committee today, so it is not possible for them to table the same document before the Committee sits, peruses and brings back a Report, they have to bring a Report concerning what it entails in that document.

So now that we committed the document today let us give them time and they present the document be it after we come back or after recess. In fact we have not reached the issue of recess, maybe also the Leader of Majority might change his mind and we might continue.

Hon. Kitula: Ahsante Mheshimiwa Mwenyekiti nafikiri kuna jambo moja ambalo hatukuelewana kwa sababu ni jambo rahisi kwamba kisheria haistahili stakabadhi hii ya Ripoti kuletwa katika Nyumba alafu ikakuwa *committed* katika Kamati tena, hakuna sheria Mheshimiwa Mwenyekiti, naomba Makatibu wa Bunge wakuelekeze chini ya Section 166 of PFM.

Sheria inasema ni Kaunti *Executive* wa Fedha alete Bunge kufikia Julai 21st haijasema pia sheria baadaye iwe *committed to sectrol Committee*. Mheshimiwa Mwenyekiti, hapo tu ndio naomba unipatie mwelekeo wako.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Tobias Samba.

Hon. Samba: Hon. Speaker it seems my friend and Honourable colleague is learning too fast and so much Hon. Kitula; through the Chair there is nothing the House or we as Members can do after a Member has requested that he can issue the Statement by Tuesday and Hon. Speaker has also made a ruling. The only thing we should be now talking about maybe we are going for recess maybe he was not aware that we are going for recess, he can request for another time. But Hon. Kitula my friend I do not know whether you want the Hon. Speaker to direct then the Chairman to go out and come with the document immediately, I do not know but to save time and it has happened because you are in agreement that the first quarterly Report you have and the second one he has not produced. Maybe this is the time and things are now changing, how we are doing things, things are now changing because initially most of us were new even with the procedures, with the rules and regulations we are now catching up. So we acknowledge that maybe there are some hiccups somewhere but I do not know whether you want Hon. Speaker to subject the Hon. Member to go outside and come with a document and the best thing the Chairman has done for the Finance he has requested for more time. So I think it is prudent or fair enough if we give him that time so that at least next time you be served or given the document that you have requested for. Thank you Hon. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Thank you Hon. Tobias Samba. Hon. Members Committees are extensions of the Assembly, so I have directed the Committee to first make sure that document that Hon. Kitula is asking for... I saw it is just a one-page document as said by the Chair by Tuesday give that document to the said Member and any other Member who will wish to have that document and as per Reports that we have committed to that Committee the House Business will sit and see as to when they will be back in this Honourble House for the Members to discuss on them. Yes, Clerk?

RESPONSE TO STATEMENT BY CHAIRPERSON COMMITTEE ON FINANCE HON. MOHAMED HATIMY ON
MOMBASA COUNTY BUDGET EXPENDITURE IN FY 2017/2018 AND 2018/2019 AS SHOWN IN REPORT
OF THE CONTROLLER OF BUDGET

Yes Hon. Mohamed Hatimy, Chairperson Committee on Finance, Budget and Appropriations?

Hon. Mohamed Hatimy: Mr. Speaker and Hon. Members I wish to give a Statement in response to issues raised by Hon. Kitula in this House on 11th March, 2020 as follows; Mombasa County Finance Bill, 2019 was submitted for public participation first by the County Executive at the Tononoka Hall and by the County Assembly by 31st October, 2019 at various locations, the six Sub Counties in Mombasa.

The Report on the views collected at the Tononoka public participation forum was submitted to the County Assembly and is available on request. The Report by the Sectoral Committee on Finance, Budget and Appropriations on the public participation was adopted by the County Assembly at its 118th Sitting on 4th December, 2019.

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Please refer to the Hansard Report available online at the County Assembly website. Article 10 and 196 provide a legal framework for public participation which are reinforced by the statute which as part 8 of the County Government Act of Section 132 and 133 of the Public Finance Management Act, 2012. County Public Participation guidelines, 2016 and Standing Order No.121 have stipulated that whatever views given in public participation forum must be included in the Bill for Finance for other legislation. What is required is for the views to be taken into account when preparing or enacting legislation and that was done parallel to other consideration. It should be noted that it is not only views of the public that should be considered but also the need to fund the annual budget and raise revenue to provide citizens to the wider public that is also taken into consideration hence a balance must be strived.

Mr. Speaker the County Assembly Report on public participation contains satisfactory details on the venues, views and details of reduction and increment made on the Mombasa Finance Bill, 2019. Either on the recommendations from the public or Committee which were adopted by the County Assembly and included in the Bill was enacted assented by His Excellency the Governor and is now a law. Mr. Speaker indeed the Mombasa County Government has recently won a High Court Petition challenging the said law on the basis that there was a no public participation; it also won against an Order for temporary suspension of the Mombasa County Finance Act, 2019 by Hotel industry players.

Mr. Speaker with regard to the other part of the request for statement on Development Expenditure and other accompanying details for the FY 2017/2018 and 2018/2019 these are available in the Controller of Annual Budget Implementation Report and the Auditor General's Report which are available freely online. The Member may also get hard copies from the Clerks Office. For the FY 2017/2018 the County spent Ks.2.91Billion in development expenditure which was 76 per cent of the annual allocation of Ks.3.8Billion. The table 3.8; on page 90 of the Controller of Budget, with Annual Budget Implementation Report for FY 2017/2018, provide an analysis of development projects with the highest expenditure.

For the FY 2018/2019 the County spent Ks.3.11Billion in the development expenditure which was 71.5 per cent of the Annual allocation of Ks.4.34Billion. Table 3.81 on page 185 of the Controller of Budget and Annual Implementation Report for FY 2018/2019 provides the analysis of the development projects with the highest expenditure. Mr. Speaker, we wish it to be noted that since the Controller of Budget and the Auditor General have already reported on these expenditure and Assembly adopted County Public Investment and Accounts Report on the Expenditure for FY 2017/2018 this matter stands closed. Thank you, Mr. Speaker.

[Applause]

The Deputy Speaker (Hon. Fadhili Mwalimu): Thank you Hon. Mohamed Hatimy. Yes Hon. Charles Kitula?

Hon. Kitula: Mheshimiwa Spika nimemsikiliza tena sana vizuri tena kwa makini Mheshimiwa Mohamed Hatimy anayewakilisha Kamati ya Fedha na kusema kweli sijaridhishwa asilimia 100 na zaidi majibu aliotowa, kwa sababu taarifa yangu iko wazi, lakini yeye anafahamu kweli kitu gani kinaulizwa. Taarifa iko wazi, Mombasa County Budget Expenditure FY 2017/2018, 2018/2019 as shown in the Report of the Controller of Budget; nafahamu niko na Controller of Budget Report nimeipitia, *expenditures* za kiwango ziko hapo, kitu ilikuwa nasema nataka *expenditures* kama Wizara yake anayo ongoza Finance and Economic Planning imetumia Ksh.5Billion.

Ningetaka kujua hiyo Ksh.5Billioni imetumia nini na nini na nini; na juzi wakati unatoa uamuzi Kiti chako ilikuwa wazi hapa nilisimama nikasema nataka matumizi ili iweze kuingia kwenye Hansard, sasa leo hii ananiletea ile ile Ripoti ya Controller of Budget yeye anakuja ananiletea Ripoti ile ile. Ilikuwa wazi Mheshimiwa Mwenyekiti kwa sababu hapa sisi ni Wawakilishi wa kata ndogo mbali mbali; Transport and Infrastructure imetumia Kshh.3.7Billioni lakini sijui Ksh.3.7Billioni hii imetumika kufanya nini? Na ni jukumu langu kama Mwakilishi wa Kata ndogo ya Frere Town kuuliza Kamati yake iweze kuniletea yale matumizi ambayo wametumia Ksh.3.7Billioni niweze kujua zimetumika na hii na hii na hii! Na Taarifa yangu iko wazi Mheshimiwa Spika, ki wazi sasa vile majibu anavyotoa, anavyosema hapa inaonyesha kuwa Controller of Budget ndio hizi *amounts* ziko hapa. Halafu yeye pia analeta ile ile; sasa nani atakae jua kama sitauliza Mheshimiwa Mwenyekiti, kwa hivyo naona kwamba haki yangu inakiukwa na Taarifa inavyojibiwa, haikujibiwa ipasavyo na Mheshimiwa Mwenyekiti nasubiri muongozo wako kulingana na hili kwa sababu Taarifa haijajibiwa vile nimeuliza. Ahsante.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Amriya?

Hon. Amriya Juma: Thank you Mr. Speaker for according me the opportunity. Mr. Speaker i think the request is very clear and the Chairman of Finance has given the budget expenditure according to the Controller of Budget but you see what Mr. Kitula is saying, is asking about a breakdown so when you are talking about budget expenditure and breakdown those are two different things. Mr. Speaker we should not be prone to just appear controversial in matters that are very clear on the face value; If you look at, if you have read the request for Statement of Mr. Kitula he talked about the budget expenditure and what the Chairman for Finance has given is the expenditure according to the Financial year's 2017/2018, 2018/2019 Mr. Speaker and so we should not be fond of just appearing controversial while you have just asked for one thing and given the answer and then divert to something else. If the intention was a breakdown it should have stated clearly that the intention was a breakdown and if it was expenditure then it should be expenditure as the Chairman has responded Hon. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula as per your written Statement was it on break down or expenditure?

Hon. Kitula: Mheshimiwa Spika kulingana na Makatibu wanafahamu hapa imeandikwa *headline* tu ya Taarifa yangu lakini Taarifa yenyewe ilikuwa wazi, nilihitaji *location of projects, amount incurred on each project* na vile vile *amount incurred on each development project, location of each development project* niliuliza vizuri katika Taarifa lakini hii hapa Makarani kulingana na wao wanaandika tu *headlines* hata ukiangalia Ripoti ya Mheshimiwa Kalume ni *approval list*, mambo ya *autism* haijaandikwa Ripoti nzima imeandikwa tu *headline*. Kwa hiyo hiyo ni *headline* lakini *content of my Statement* ilikuwa iko wazi kabisa nilitaka *allocation of each and every project* na *amount incurred* kabisa.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Tobias?

Hon. Samba: Mr. Speaker it is quite interesting and it is good we are advancing, I do not think whether what Hon. Kitula is requesting can be available even if Hon. Chair decides to come with the document you will not be able to go through them right away because he is requesting for the report for the *[Inaudible]*.

In fact I do not know how to put it but whatever Hon. Kitula is requesting may be if we can go as per the department because each and every department has got its own budget and whatever the Chairman has given that is what is supposed to give us and Controller of Budget report also has it there. Now if he needs the detailed report as per what he is requesting, I think we should do it as per department and number two also when you want to know the expenditure incurred as per each and every project that one I think it requires not even one Committee as Finance but even Implementation will also be involved. So I think what Hon. Kitula whatever is requesting may be if we can have a bulk document I think that is what is requesting as at now. Thank you Hon. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Honourable, let Hon. Mwamwiri then Hon. Kitula.

Hon. Athmani Mwamwiri: Ahsante Mheshimiwa Spika. Mheshimiwa Spika swali la Mheshimiwa Wa Frère Town ni swali bayana ila katika kulijibu kwake linahitaji ufasaha na maelekezi barabara. Kwa sababu Mheshimiwa Spika swala hili likienda kwa Kamati ya Fedha kikubwa chao katika kujibu watachukua Ripoti ya Controller of Budget ambayo Controller of Budget *source* ya taarifa yake inatoka kwa *Treasury*. Hakuna tofauti ya taarifa ya Treasury hapa kwetu na Controller of Budget kwa sababu Controller of Budget anatumiwa taarifa kutoka kwa hazina yetu, kutokana na taarifa ile ndio anatengeneza Ripoti hii inayotoka kwa muda lakini kiufasaha niungame na Mheshimiwa Samba alivyosema moja; ya kwamba kila idara ihusishwe katika kuitengeneza Ripoti mahsusi ya matumizi ya fedha zao, pili Mheshimiwa iende ama ingekuwa swali amelileta kutaka kujua mgao uliokusudiwa katika Wodi yake na yale yalifanyika kama njia moja wapo ya ku *oversight* katika ile Wodi mahsusi lakini inapokuja katika utumizi *generally* ya mabilioni ya pesa tunazozipata kila mwaka Mheshimiwa Spika kwa taarifa kupitia kwa Kamati moja itahitaji Kamati hii tuipe mda wa zaidi ya mwaka kwenda fanya hilo. Lakini, Mheshimiwa Spika aidha kwa marekebisho yake binafsi ama kwa maelekezo yako swala hili lirudi kwenye Kamati mahsusi, kila Kamati kuchukua jukumu la matumizi ya bajeti ya Kamati, alafu taarifa zile zije kutokana na kila idara pengine ingemridhisha kidogo katika yale aliyoyakusudia kuyapata kuliko kulitarajia hili moja kwa moja kutoka kwa Kamati ya Fedha itakuwa na mushkil na mtihani. Ahsante Mheshimiwa Spika.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Kitula?

Hon. Kitula: Mheshimiwa Spika nimemsikiza Mheshimiwa Samba na Mheshimiwa Mwamwiri lakini niwaambie kwamba Kanuni za Bunge nambari 41 iko wazi kabisa, kila mmoja ana haki ya kuuliza Taarifa jinsi anavyotaka, mimi nimeuliza Taarifa yangu ninavyotaka mimi na nina haki kuweza kujibiwa ninavyotaka mimi na Taarifa yangu iliweza kuwa wazi...

[Interruption]

Tafadhali naomba hapa ni Bunge ukiwa una jambo kupitia Kiti chako simama utaje Kanuni ya Bunge au kama nakosea nitakusikiza kuliko kuguna. Kwa hivyo Mheshimiwa Spika mimi niko na haki ninaposimama kuuliza Taarifa na Taarifa yangu iko wazi na nimesema hata tukafanya nini stakabadhi zote na malipo yote inafanywa na Wizara ya Fedha, bado Fedha ndio wako na *file* zote za IFMIS, *file* zote za *softcopy* na *hardcopy* wao ndio wako nazo pale na ni jukumu lao wao kuweza kunipatia mimi.

Kama nasema nataka orodha *of all development projects, amount incurred na location*, ni *file* tu wako nayo, kama Wizara ya Mazingira watasema, *environment file* ya *Environment department* yake ni hii hapa 2017/2018 *development* ni hizi, waje wanipatie hizo stakabadhi niweze kuzipitia ziweze kuonekana. Na ni kitu kidogo tu lakini sasa mtu kujanipatia matumizi ambayo yako hapa, Mwamwiri ameeleza vizuri Controller of Budget *source* yake inatoka *County Treasury* lakini hakuna hapa sote ni Mheshimiwa Mwamwiri na Samba ni *elected*, leo nikimwambia Mheshimiwa Samba ambaye ni Mwenyekiti wa Kamati ya Vijana, Jinsia na Michezo Wizara ya YGS imetumika kwa *development* imetumika shs190Milioni aniambie imefanya nini atashindwa kunijibu na kama atakuwa anajua basi mimi nimefanya makosa. Lakini mimi ni Mwanakamati wa Kamati hio lakini hatujui Mheshimiwa Mwenyekiti pesa zinatumika lakini hatuwezi kuelezea wananchi katika shs 190 Million ya *development* tumefanya hiki na hili na hiyo. Ndio mimi nahitaji Mheshimiwa Spika ambapo nashangaa Waheshimiwa wenzangu ambao wamechaguliwa kwa kura wanastahili kuniunga mkono kwa hili kuweza kujua sehemu wanayotoka na watu wanao wawakilisha pesa zinazotumika vipi katika idara zao zinatumika vipi lakini Mheshimiwa Mwenyekiti kusema ukweli nasubiri mwelekeo wako kwa sababu Taarifa yangu iko wazi kwamba ningependa kujua zile *expenditure list of development project, location na amount incurred*.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Athman Shebe?

Hon. Athman Shebe: Ahsante sana Mwenyekiti kwa kunipatia fursa. Mwenyekiti nimekuwa makini sana nikisoma mvuto ama kuwasiliana kwa mwili katika Waheshimiwa wote hapa; Wazungu wamesema *body language* na ni masikitiko makubwa nafikiri Waheshimiwa wote wamemuelewa na Mheshimiwa pia Mwenyekiti wa Kamati ya Fedha ameelewa bayana Mheshimiwa Kitula malengo ya Taarifa hii ilikuwa ni nini na ndipo hapa nikasema iko hatari kubwa Mheshimiwa Mwenyekiti na mimi pia vile vile nafunga jamvi kwako Mheshimiwa Mwenyekiti kwa sababu tutahitaji muongozo wako na upeo wako na utumie nafasi ya hicho Kiti kuhakikisha kuwa ili Waheshimiwa na wananchi waweze kupata baadhi ya majibu ya matumizi ya fedha zinavyotumika za serikali ya Kaunti basi Mheshimiwa inabidi uweze kuchukua fursa kuhakikisha kuwa swali la yule mlengwa aliyeuliza lijibiwe vile inavyotakikana. Hii ni kwa sababu bajeti ya Kaunti ya Mombasa kila mtu anajua, bajeti ya Kaunti huwa inakuja kimpigo, inakuja kifumbo, kwa hivyo fumbo hufumbiwa mjinga tu Mheshimiwa Mwenyekiti lakini mwerevu atalivumbua.

Kwa hivyo Kiti chako Mheshimiwa Mwenyekiti kimejaa hekima kubwa sana, kubwa tunakuomba uweze kutufumbulia hili fumbo ili uweze kumpatia Mheshimiwa Mwenyekiti wa Sarafu maelekezo ya vipi Mheshimiwa mlengwa alivyo uliza hili swali atapata haya majibu kwa sababu pia mimi ni mmoja wapo ambaye niko na kiu ya kutaka kujua matumizi vipi ya pesa za maendeleo zilivyotumika kwa kila eneo kata Mheshimiwa Mwenyekiti. Ahsante.

The Deputy Speaker (Hon. Fadhili Mwalimu): Okay Hon. Hatimy I think you have heard the issues by Hon. Kitula, can you respond because he is doubting your response.

Hon. Mohamed Hatimy: Mheshimiwa Spika swala hili nimelipata kutoka kwa House Business vile limekuja, mimi siletewi barua ya kusema kuwa nataka kujua nini ama nini, mimi naenda na swala vile limeletwa. Mwenye kuuliza ametaka kujua *budget expenditure financial year 2017/2018 as shown in the report of the Controller of Budget* swala nililoletewa mimi ni hilo...

[Interruption]
[Hon. Kitula on his feet]

The Deputy Speaker (Hon. Fadhili Mwalimu): Just wait a minute!

Hon. Mohamed Hatimy: Poa! Poa! Poa! Mheshimiwa Spika nataka hiyo barua alioileta iliopokelewa na Katibu wa Bunge atuletee sisi tuone imepokelewa lini na swali limeandikwa nini kwa sababu sisi hatuendi kwa barua zikishakuja hapa, sisi twaenda kwa swala vile imeulizwa kwa Bunge, kuwa swala lililoulizwa ni hili na kwa nini asijibiwe. Mheshimiwa Mwenyekiti si kampuni ya babangu ama mamangu eti kusema nifiche kitu lakini tunakwenda kwa mujibu wa lile swala vile limekuja ndio sisi tumejibu na Mheshimiwa Mwenyekiti hii ni Nyumba ya sheria Katiba ya Kenya Article 226 iko wazi kila mwaka Auditor General atakuja afanye ukaguzi wa vitu na nimesema kwenye Ripoti yangu vitu vyote viko kwenye mitandao. Hii *chapter* imefungwa kwa sababu sisi tushakuja tukaangaliwa Nyumba hii hii imepitisha Ripoti ya PAC na kusema kuwa hii maneno imepitwa na wakati saa hii kama anataka aende aangalie kwenye mitandao aangalie atapata vile vitu anataka. Ahsante Mheshimiwa Spika.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes, Hon Charles Kitula can you provide the Statement that you forwarded to the Clerks?

Hon. Kitula: Mheshimiwa Spika nimesema Taarifa iko hata uzuri Karani wake wa Fedha ni Abdallah anaweza kuthibitisha haya maneno ninayo ongea.

The Deputy Speaker (Hon. Fadhili Mwalimu): Abdallah cannot speak in this Assembly.

Hon. Kitula: Nasema ni Karani wake anaweza kuthibitisha kwa sababu yeye ndio anapeleka stakabadhi katika Kamati.

The Deputy Speaker (Hon. Fadhili Mwalimu): Clerk of the Committee?

Hon. Kitula: Yes ya Fedha na yeye ndio huw anakaa katika Bunge hili Mheshimiwa Spika, nimesema mara ya pili kwamba hii imeandikwa hapa ni *headline* haijaandikwa *content* yote na hata ukiangalia biashara ya nambari tisa inakuja itashuhudia kwamba hapa imeandikwa ni *deadline* lakini *content* iko na yule mtu anayeuliza na yule mtu anayejibu lakini haiwezi andikwa *content* yote kwenye Orodha ya siku kama desturi za taratibu za Bunge hili lakini hilo namfahamisha kwamba Taarifa iko akitaka nitaweza kumpatia lakini Mheshimiwa Spika afadhali niwe wazi katika moyo wangu kwamba sioni nikipata jibu mwafaka katika Bunge hili kwa hivyo afadhali nitumie mbinu ninazojua mimi kisheria kuweza kuhakikisha kwamba nimepata majibu haya kikamilifu. Ahsante.

The Deputy Speaker (Hon. Fadhili Mwalimu): Thank you Hon. Kitula. Yes Clerk?

RESPONSE TO STATEMENT BY CHAIRPERSON COMMITTEE ON IMPLEMENTATION HON. SALIM KALUME ON THE STATUS REPORT ON IMPLEMENTATION OF AUTISM SPECTRUM DISORDER IN MOMBASA COUNTY

Yes Committee on Implementation, Hon. Salim Kalume.

Hon. Kalume: Thank you Mr. Speaker Sir. Response to statement, on the status report on implementation of autism spectrum disorder in Mombasa County. Mr. Speaker I stand pursuant to Standing order 41, 2(c) to give a response to Statement on the status report on implementation of Autism Spectrum disorder in Mombasa County as asked by Hon. Hamida Noor. Hon. Speaker the Committee on Implementation held a Committee meeting on Tuesday 25th August, 2020 at 11:30a.m in the Committee room where the County Secretary was invited to shed more light on the above raised issue. Hon. Speaker the County Secretary informed the Committee that he is waiting for the department of Health to finalise on the compilation of the report and once the report is ready he will forward it to the Committee. Mr. Speaker I will bring the response to this House once the County Secretary responds back to the Committee with the detailed report. Thank you Mr. Speaker Sir.

The Deputy Speaker (Hon. Fadhili Mwalimu): Thank you Hon. Kalume but make a follow up Hon. Kalume and the Committee make a follow up on the same issue so that you fast track it and bring the report as soon as possible, Yes Hon. Charles?

Hon. Kalume: Thank you Mr. Speaker Sir.

Hon. Kitula: Ahsante Mheshimiwa Spika. Nimesema nasubiri majibu haya kwa sababu ni majibu ambayo yanaangazia mambo muhimu sana Mheshimiwa Spika, nataka Bunge hili liweze kuwa na ushahidi wa kutosha, tazama vile Mwenyekiti wa Utekelezaji ameleta barua ya ushahidi kutoka kwa Katibu wa Kaunti, sote tuko nao pia akaleta na ushahidi ya vile Taarifa hii inastahili kujibiwa akiwa yeye amethibitisha. Kwa hivyo katika Bunge hili ni dhahiri shahiri kwamba stakabadhi za Fedha zinafichwa, wananchi hawawezi...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon Kitula you are out of order!

Hon. Mohamed Hatimy: Mr. Speaker he should withdraw *[Off microphone]*.

[Technical hitch]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula you are out of order!

Hon. Kitula: Mheshimiwa Spika.

The Deputy Speaker (Hon. Fadhili Mwalimu): You are out of order! If you want to proceed first withdraw the Statement.

[Applause]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula for you to proceed you will have to withdraw the statement.

Hon. Kitula: Mheshimiwa Spika naomba unisikize. Nakubali.

The Deputy Speaker (Hon. Fadhili Mwalimu): You withdraw first and apologise.

Hon. Kitula: Under Standing Order...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula you are out of order, withdraw first and apologise then we proceed.

Hon. Kitula: Hon. Speaker, I withdraw.

The Deputy Speaker (Hon. Fadhili Mwalimu): Okay then proceed.

Hon. Kitula: Mheshimiwa Spika mimi nasimama katika Bunge hili na kusema bila uoga wowote katika Bunge hili kwamba mhusika mkuu wa uharibifu wa pesa za umma ni Mohamed Hatimy katika Bunge hili...

[Loud mummurs]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon Kitula! Yes?

Hon. Mohamed Hatimy: He should give us....evidence *[Off microphone]*.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Amriya. Have your seat Hon. Kitula.

Hon. Amriya Juma: Mr. Speaker Sir, I rise on Standing order 104. Mr. Speaker; gross disorderly conduct, conduct is grossly disorderly if a Member concerned deliberately gives false information to the County Assembly and (d) persists in making serious allegations without adequate substantiation and (j) acts in any other way to serious detriment of the dignity or orderly procedure of the County Assembly, Mr. Speaker and also 104 (2)... Thank you.

Hon. Kitula: Mheshimiwa Spika Kanuni za Bunge nambari 87 iko...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula.

Hon. Kitula: Yes.

The Deputy Speaker (Hon. Fadhili Mwalimu): First substantiate.

Hon. Kitula: Naam. Nataka niwe kwenye Hansard records kwamba Standing order 87 inasema, ikiwa nimeweza kutuhumu mtu sheria inasema niweze kuthibitisha saa hii saa hii na mimi nathibitisha hapa kwamba idara anayoongoza Mohamed Hatimy niko na stakabadhi kuunga mkono...

The Deputy Speaker (Hon. Fadhili Mwalimu): There is a Point of order. Yes Honourable use your microphone.

Hon. Samba: Unless you give us direction we were on another Statement response now i do not know why we are ending up discussing a matter that was already resolved because it does not even appear in the Order paper, just on a lighter note.

Hon. Kitula: Mheshimiwa Spika?

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Kitula substantiate on your allegations first.

Hon. Kitula: Naam, nataka nimalize hiyo *Standing order* ndio niweze ku *substantiate*.

The Deputy Speaker (Hon. Fadhili Mwalimu): Provide evidence in the House.

Hon. Kitula: Yes, *Standing order 87* inasema, *a Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate such facts instantly*. Mheshimiwa Spika nataka nikukabidhi saa hii ushahidi wa kuweza kusema kwamba Mohamed Hatimy, Mariam Mbaruk na Taufiq Balala hawa ndio wanaotumia pesa za umma vibaya na ushahidi nakupatia sasa hivi.

The Deputy Speaker (Hon. Fadhili Mwalimu): Give the evidence.

[Hon. Kitula laid a document]

Hon. Kitula: Mheshimiwa Spika ushahidi wangu naukabidhi wa mwaka wa fedha wa 2017/2018, 2018/2019 na 2019/2020 kuonyesha kwamba Wizara hizi zimekuwa zikitumia pesa huku viongozi hawa waki...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Those people that you have mentioned.

[Interruption]

[Consultations]

Those people you have mentioned.

[Silence]

Hon. Amriya Juma: Mr. Speaker, Point of Order! Mr. Speaker!

The Deputy Speaker (Hon. Fadhili Mwalimu): Ok, thank you Mr. Charles Kitula.

I can see what you have forwarded to us; Controller of Budget Reports, can you substantiate how those people that you said are the ones stealing or controlling these monies that you have mentioned?

Hon. Kitula: Mheshimiwa nimekukabidhi ushahidi wa kutosha na viongozi...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): These are Reports so substantiate if Hon. Hatimy and the other two that you mentioned are the ones that are misusing public funds in Mombasa.

Hon. Kitula: Mheshimiwa mimi nimekupatia ushahidi wangu kwamba Wizara ambazo zinatumia pesa nyingi ni za hao viongozi ambao nimekutajia; Mohamed Hatimy akiwa anaongoza hiyo Wizara ya Fedha, Mariam Mbaruk na Tawfiq Balala. Sasa wao...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): Mohamed Hatimy is the Chair of Finance Committee...

[Interruption]

Hon. Kitula: Ni mhusika mkuu kwa hizo idara...

[Interruption]

The Deputy Speaker (Hon. Fadhili Mwalimu): So from these Reports how can you substantiate that Hon. Hatimy has misused certain amounts of money in this evidence that you have given us?

Hon. Kitula: Mheshimiwa Spika kwa sababu hizo *amount* ziko hapo wao kama Wanakamati na viongozi katika hizo idara hawawezi kueleza jinsi walivyotumia pesa hizo. Huo ni ushahidi wa kutosha kwamba pesa hizo ziliweza kutumika kama kweli ni uongo wao waweze kunieleza vile pesa ziliweza kutumika hazijatumika kama kifisadi wanieleze katika Bunge hili kwamba Mheshimiwa Kitula ni muongo hizo pesa zimetumika hapo zimetumika ipasaavyo na mimi nitaweza ku *withdraw statement* yangu lakini kufikia sasa pesa hizo zimetumika zimekwenda kwa mifuko ya watu hazijaenda mashinani.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Hon. Amriya?

Hon. Amriya Juma: Mr. Speaker I think when you look at our Evidence Act, when you look at Section 114 it talks about one who alleges must prove. Mr. Speaker, Hon. Kitula has come out very firmly in open Assembly to mention names adversely and these are names of persons who have reputation in the society, this is a Parliament of rules that is guided by rules and procedures.

Mr. Speaker if the Hon. Member has mentioned Mr. Hatimy, Ms. Mariam, Ms. Aisha I was expecting that he was going to dish out documents to prove that there is a signature of one Mr. Hatimy or Ms. Mariam in misappropriation or will bring out facts in evidence just the same way you do it in court. Mr. Speaker if you look at the Constitution this Parliament and its Committees has been given the same jurisdiction as the High Court and you cannot tolerate such precedence where Members have started defaming each other and other Members of the society. So Mr. Speaker I urge you before you make a ruling that you be guided by the Constitution, that you be guided by the Evidence Act and lastly you be guided by these Standing Orders and affirm your Chair. Thank you.

[Applause]

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Ibrahim?

Hon. Omondi: Mr. Speaker just as I said that one Hon. Kitula is behaving more of an investigator because he cannot just stand up here in this Honourable House and allege the three who are mentioned have been found guilty of what is alleging. Mr. Speaker when you look at the three that he is mentioning these are human beings, these are people who have got families, these are people who have got very good reputation in their work and Mr. Kitula can just stand up and mention as if is in his own house and allege that the three have actually mishandled funds for the County.

Mr. Speaker I think this is a very serious offence according to me and again it will be very wrong when we come into this House that we should always entertain Mr. Kitula every now and then in this House; in fact he should not be trying to underrate your seat, let me tell you for free every time Mr. Kitula is underrating your seat because you see here every time he wants to argue with you it becomes an argument but here we already have the Order Paper which we are supposed to follow not bring issues. Thank you.

The Deputy Speaker (Hon. Fadhili Mwalimu): Hon. Members I can see we have dwelt well on this issue and there are Standing Orders that have been mentioned, 104 Standing Order and others. Standing Orders have been mentioned; the Hon. Member Hon. Kitula also provided some documents before this Honourable House. I now take this opportunity to rule that the Member will be called before the Powers and Privileges Committee to substantiate his arguments and the Committee will give its stand. The said Member and the Committee will look up either to call the mentioned people also to come before that Committee, so Hon. Kitula you will be notified when to come before that Committee to substantiate on whatever allegations but Hon. Kitula if you fail to substantiate and the Committee will take its stand.

Hon. Kitula: Most obliged Hon. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Yes Clerk?

PROCEDURAL MOTION

ADJOURNMENT OF THE COUNTY ASSEMBLY

The Leader of Majority (Hon. Mwidani): Mr. Speaker let me move a Procedural Motion Adjournment of the County Assembly.

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That Pursuant to Standing Order 25 (3) and the County Assembly Calendar adopted by this House on Tuesday 18th August, 2020 this Assembly adjourns for recess to resume regular sittings on Tuesday 15th September, 2020.

Thank you, Mr. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Who is your seconder?

The Leader of Majority (Hon. Mwidani): Hon. Amriya Boy.

Hon. Amriya Juma: I highly second Mr. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): I now propose a question that the Motion by Hon. Hamisi Musa Mwidani on Adjournment of the County Assembly be considered by this Honourable House in the same terms as moved.

[Question proposed and agreed to]

Yes the Leader of Majority, any contributions?

The Leader of Majority (Hon. Mwidani): Mr. Speaker I think I do not have much to say, I know Members want to leave very early so that they can meet their people at their Wards and some in their *Maskani* although we have a lockdown or we can say it is a curfew I mean but am hoping that maybe the curfew will also be lifted so that Members can have a good time to be in town up to midnight. Thank you, Mr. Speaker.

The Deputy Speaker (Hon. Fadhili Mwalimu): Thank you. Yes, Clerk?

ADJOURNMENT

Hon. Members, the House stand adjourned until Tuesday 15th September, 2020 at 10:00a.m.

The House rose at 3:50p.m.