



## COUNTY ASSEMBLY OF MOMBASA

### OFFICIAL REPORT

Wednesday, 16<sup>th</sup> October 2019  
The House met at 10:16 a.m.

*(The Speaker (Hon. Aharub Ebrahim Khatri) in the Chair)*

### PRAYERS

**The Speaker** (Hon. Khatri): Hon. Members you may be seated. Yes Clerk?

### PAPERS

THE REPORT ON THE PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL, 2019

Yes Hon. Amriya Juma Boy the Chairperson, Committee on Justice and Legal Affairs please lay down the Paper.

**Hon. Amriya Juma:** Thank you Mr. Speaker. With your permission I wish to lay down the Paper on the Report on the draft of Punguza Mizigo.

*(Paper Laid)*

**The Speaker** (Hon. Khatri): Thank you. Yes Clerk next Order?

### MOTION

ADOPTION OF THE REPORT OF THE DRAFT PUNGUZA MIZIGO (CONSTITUTION OF KENYA AMENDMENT) BILL, 2019

Yes Hon. Amriya Juma Boy, please move the Motion.

**Hon. Amriya Juma:** Thank you very much Mr. Speaker. Mr. Speaker I wish to seek leave to move the Motion in the afternoon so that we can give time to the Hon. Members to go through the Report before adoption in the afternoon, with your permission. Thank you.

**The Speaker** (Hon. Khatri): Thank you Hon. Amriya. Yes you may move the Motion in the afternoon. Clerks make sure the Motion is there in the Order Paper in the afternoon.

**Hon. Amriya Juma:** Most obliged.

**The Speaker** (Hon. Khatri): Permission granted. Yes Clerk, next Order?

ADOPTION OF THE REPORT ON REFERRAL OF MOMBASA COUNTY INVESTMENT CORPORATION BILL,  
2019

Yes, Hon. Kizito Opeya?

**Hon. Opeya:** Thank you Mr. Speaker. Motion that this County Assembly adopts the report on Referral of the Mombasa County Investment Corporation Bill, 2019. I call upon Hon. Samba to second.

**The Speaker** (Hon. Khatri): Yes Hon. Samba?

**Hon. Samba:** Yes I second Hon. Speaker.

**The Speaker** (Hon. Khatri): Thank you. Hon. Members I now propose a question that the Motion by Hon. Kizito Opeya on Adoption of the Report on Referral Mombasa County Assembly Investment Corporation Bill, 2019 to be considered by this Honourable House in the same terms as moved.

*(Question proposed)*

Yes Hon. Kizito Opeya please eliminate the amendments.

**Hon. Opeya:** Thank you Mr. Speaker. As Members we are all aware we had debated this Bill and it was forwarded to the Governor for his assent; and as I have looked at it he highlighted one or two areas that he felt were necessary to be amended so that it would not cause complications in the future and he highlighted the Clauses. If you go through the Report you will see the Clauses that the Governor had highlighted and we sat as a Committee and we looked at the Clauses and we also agreed with his findings that they could be complications in future. So we did the amendments and this is the Report we have brought to the House so that Members can also see the necessary amendments that we did and agree with us so that we can finish the process today and hopefully it can be sent to the Governor and he can assent to it this time. Thank you.

**The Speaker** (Hon. Khatri): Hon. Kizito Opeya maybe you can highlight the amendments to the House, some of the amendments.

**Hon. Opeya:** Thank you. If you go to Committee observations and findings, some of the amendments were in Clause 6; as far as Members where the Governor proposed that we have five instead of six so in case there was a voting there would be a tie breaker.

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When we have six it is very difficult to have a tie breaker when they are voting in six people maybe three are on this side and three on this side. So the Governor said it had either to change into odd number. Then there is also about the experience of the Managing Director or the Chairperson and it was now clearly specified that he must hold a Bachelors Degree and has a knowledge and experience of not less than five years in the relevant field. Thank you.

**The Speaker** (Hon. Khatri): Yes Hon. Hamisi Mwidani, the Majority Leader?

**The Majority Leader** (Hon. Mwidani): Thank you Mr. Speaker. I rise also to support the amendment of the Report of the Referral of the Mombasa County Corporation Investment Bill, 2019. Mr. Speaker as you are aware that we have already passed this Bill but now this is the recommendation and amendment from His Excellency the Governor and I think Mr. Speaker on my side and in my views that whatever that has been amended here fits with the law and within the Act of that Bill. So Mr. Speaker I rise to support it. Thank you.

**The Speaker** (Hon. Khatri): Thank you Hon. Mwidani, the Majority Leader. Yes Hon. Charles Kitula, the Chief Whip?

**The Chief Whip** (Hon. Kitula): Ahsante Mheshimiwa Spika. Mheshimiwa Spika kusema kweli nikiangalia *Clause ten* ya *recommendation and observation*, it indicates that the *Clause 10(3)(b) of Bill* be amended by deleting the word, “investment” and inserting the word “senior” to read, “has had experience in senior management for a period of not less than seven years” Mheshimiwa Spika. Hiyo ni dhahiri shahiri kwamba Gavana aliona umuhimu zaidi kuweza kuhakikisha kwamba atakayeweza kuzingatia maswala kama haya ni mtu ambaye ana ujuzi zaidi na kuweza kuhakikisha kwamba utekelezaji katika *Bill* hii itakuwa ni kuhakikisha kwamba watu ambao wako katika bodi hii ni watu wenye ufahamu zaidi na wenye uwezo zaidi ya kuweza kuleta waekezaji na kuweza kuhakikisha kwamba Kaunti yetu inapata waelekezaji ambao watakuwa na imani na watakuwa hawasumbuliwi na kesi Kortini kila mara kwa mara Mheshimiwa Spika. Kwa hivyo kwa hayo machache ningependa kuunga mkono ripoti, Mheshimiwa Spika ahsante.

**The Speaker** (Hon. Khatri): Thank you Hon. Charles Kitula. Yes, Hon. Nyiro?

**Hon. Nyiro:** Ahsante Mheshimiwa Spika. Nafikiri nasimama kuunga mkono mapendekezo ambayo Gavana aliyaangalia kwa mara ya pili na ni kweli ukizingatia mapendekezo kama ile ya *Clause 2(a)*, “A person to be qualified for appointment as a Chairperson or a Member appointed under section 1(d) the person shall possess the following; a. holds a Bachelor’s Degree”, ambayo mbeleni mapendekezo yalikuwa ni kwamba awe na *Degree* ya Sheria na mambo mengi ambayo sasa kuwa Mwenyekiti ni mtu tu ambaye ana ufahamu na ni msomi si lazima awe na tarbani nyingi kwa sababu katika lile Bodi kutakuwa na wataalamu mbali mbali ambao watakuwa wanapeana ushauri wao.

Kwa hivyo Mwenyekiti ni mtu afaa awe msomi kwa hivyo kuwa na *Degree* ni usomi. Alafu yale mambo mengine ya kitaaluma yatapeanwa na watu ambao wako pale kutekeleza majukumu ya kitaaluma, hivyo basi ni pendekezo ambalo Gavana aliona kwa kina na nayapongeza.

Mswada huu pia ni mzuri kwa sababu kukiwa na kitengo maalum ambacho kinashughulikia tu uwekezaji itakuwa haina haja kila Wizara uone mara imeenda ng'ambo kutafuta uwekezaji. Sasa itakuwa ni kitengo imara ambacho kinahusiana na uwezekezaji na itakuwa ni bora zaidi kwa sababu tunajua uwekezaji unasimamiwa *from a central place*. Kwa hio mimi nasimama kuunga mkono mapendekezo pamoja na Mswada kwa jumla, ahsante.

**The Speaker** (Hon. Khatri): Thank you Hon. Nyiro. Yes, Hon. Nzai?

**Hon. Nzai:** Thank you very much Mr. Speaker for having given me this chance also to air my views. First I congratulate this Bill which has come at the right time; the amendments are as good as making this Bill to be more independent; for example when you go to Clause 11 it says that, Clause 11 of the Bill, *"be amended by deleting the word County Public Service" to read "the Managing Director"*. This on its own shows a commitment; it means for any misconducts to this Bill then the County will have somebody to be held responsible, who is accountable for that mess. So I stand to support the amendment and the Bill, thank you Mr. Speaker.

**The Speaker** (Hon. Khatri): Thank you Hon. Nzai. Yes, Hon. Ali Sharrif? It's okay Hon. Ali Sharrif if you are still going through the amendment it is fine, we will give you more time. Yes Hon. Samba just go through it Hon. Ali Sharrif then you give us your views on the amendments.

**Hon. Samba:** Thank Hon. Speaker. First of all let me congratulate the whole team for the first Bill we had in the second Assembly and also when we passed this Bill here for Governor's assent it came back to us and me being one of the Committee Member we had to go through it and we found out that the amendment was very genuine. Like for example if you go to Clause 10(3)(b) of the Bill be amended by deleting the word "investment" and inserting the word "senior" initially it was to read *"to have experience on investment matters"* so the Governor thought it wise maybe it would be very difficult to find someone who has a vast experience in investment issues rather than just putting it on a seniority matters now, that it should read now that, *"I have had experience in senior management for a period of not less not than seven years,"* we know that most of the people have managerial skills so Hon. Speaker I thought it is also good and I also stand to support it. Thank you Hon. Speaker.

**The Speaker** (Hon. Khatri): Thank you Hon. Samba. Yes Hon. Bwire?

**Hon. Bwire:** Thank you Mr. Speaker. Mr. Speaker it is when am going through the Bill I have not exhausted it, but as I go through it am gaining interest of supporting it.

**The Speaker** (Hon. Khatri): Thank you. Yes Hon. Lucy Chizi?

**Hon. Chireri:** Ahsante sana Mheshimiwa Spika kwa kuniona; nimechelewa lakini sijachelewa kwa haya. Langu ni kuunga mkono Ripoti moja kwa moja yalioandikwa hapa Mheshimiwa Spika yaweze kutekelezwa mara moja, ahsante.

**The Speaker** (Hon. Khatri): Thank you. Yes Hon. Lucy Chizi? Yes Hon. Evelyn Osongo?

**Hon. Osongo:** Thank you Mr. Speaker for the opportunity granted. I stand to support the Motion in that the amendment that had been made in Clause eleven; “*The Managing Director shall hold office for a period of three years on such terms and conditions of employment as the Board may determine and be shall eligible for appointment for further and final terms of three years*”. I think the Governor has done a very good job in considering this so that other Managers who want to be Managing Director can also get the opportunity after three years, so the person who will be appointed in this Department will also have to work harder and maintain the job he has been given, so that the job his/her maybe renewed thank you.

**The Speaker** (Hon. Khatri): Yes Hon. Mwaka Bakari?

**Hon. Mwaka Bakari:** Ahsante Mwenyekiti wajua ukisema Mwaka, bado tu mimi nitasimama tu Mwaka yataka useme Mwaka *senior* ama Mulundonda. Ahsante sana Mheshimiwa Mwenyekiti mimi naunga mkono Hoja hii ambayo imeletwa hapa leo shukran.

**The Speaker** (Hon. Khatri): Yes Hon. Faith, sorry yes Hon. Feddis?

**Hon. Mburu:** Ahsante Mheshimiwa Spika. Pia mimi napenda kuunga mkono *Bill* hii kwa sababu ilikuja tukaipitisha mambo kidogo tu yarekebishwe na nampongeza Mheshimiwa Gavana kwa sababu aliweza kuchukua wakati na akarekebisha kwa hivyo naunga mkono asilimia mia kwa mia. Ahsante sana.

**The Speaker** (Hon. Khatri): Thank you Hon. Feddis. Yes Hon. Leila Mughazo?

**Hon. Nyache:** Ahsante sana Mheshimiwa Spika. Hata mimi pia naunga mkono Hoja hii kwa sababu itatuletea pia maendeleo katika jiji letu la Mombasa. Ahsante Mheshimiwa Spika.

**The Speaker** (Hon. Khatri): Thank you Hon. Leila. Yes Hon. Shebe I can see you are going through, yes Hon. Shebe?

**Hon. Shebe Athman:** Ahsante sana Mheshimiwa Mwenyekiti ilikuwa bado naipigia mbizi hoja hii Mheshimiwa Mwenyekiti kwa hivyo nimeona *in a nutshell* ni mswada mzuri ambao utaweza kusaidia upande wa kibiashara na kuwekeza katika Kaunti yetu ya Mombasa na vile vile mabadiliko yaliyoletwa hapa pia nimeyaona Mheshimiwa Mwenyekiti ambayo yataweza pia kusaidia na kuwapatia watu nafasi ya kuangalia kuwa vipi tutaweza kuendesha ama jopo kazi hili ambalo litatarajiwa kuundwa katika hii Kamati itaweza kusaidia hii *investment corporation otherwise* naunga mkono mapendekezo haya ambayo yameweza kuwekwa hapa katika huu Mswada. Ahsante Mheshimiwa Mwenyekiti.

**The Speaker** (Hon. Khatri): Thank you Hon. Shebe. Yes Hon. Kizito Opeya you may reply to the Motion.

**Hon. Opeya:** Thank you very much Mr. Speaker. First of all I want to thank the Members for their contribution to the Report; as you can see the original Bill had 43 Clauses and the Governor only had issues with only three Clauses. So it means that the Bill itself was good it was only one or two areas that needed to be fixed and hopefully that by the close of business in this session we would have finished and it could be taken to the Governor to assent it. Thank you very much.

**The Speaker** (Hon. Khatri): Thank you very much Hon. Kizito Opeya. Hon. Members I now put a question that the Motion by Hon. Kizito Opeya on, *adoption of the report of referral Mombasa County Investment Corporation Bill, 2019* be adopted by this Honourable House in the same terms as moved.

*(Question put and agreed to)*

Yes Clerk next Order?

#### ORDER OF COMMITTEE READ

#### COMMITTEE OF THE WHOLE HOUSE

*(The Mace was lowered)*

*(The Speaker (Hon. Khatri) exited the Chair)*

#### IN THE COMMITTEE

*( The Deputy Speaker (Hon. Mwalimu) in the Chair)*

**The Chairperson** (Hon. Mwalimu): Hon. Members we are now in the Committee of the Whole House under Standing Order 131 on the *re-committal of a Bill* from His Excellency the Governor and Hon. Members we are going to touch only on the issues raised by the Committee from the Hon. Governor the Clauses which are supposed to be amended and I can see we have at least three Clauses. So without wasting much time the Clerk will read the amendment Clauses for the House to proceed. Yes Clerk?

*(Clause No. 6 (1) was read)*

*THAT, clause 6 (1) (d) of the Bill be amended by deleting the words ‘six’ and inserting the word, ‘five’ to read as follows; Five professionals appointed by the Executive Committee Members in consultation with the Governor;*

*THAT, Clause 6 (1) (e) be amended by deleting the words, "and Secretary to the Board" to read (e) the Managing Director who shall be...*

*(Interruption)*



**The Chairperson** (Hon. Mwalimu): Hon. Members now I propose a question that Clause 6 (1) (d) as amended to read, *Five professionals appointed by the Executive Committee Members in consultation with the Governor.*

*(Question proposed and agreed to)*

Yes Chairman anything to..., any input to this Clause?

**Hon. Opeya:** I agree with the amendment.

**The Chairperson** (Hon. Mwalimu): Under what grounds are you agreeing with the amendment? This is the Committee of the Whole House you need to explain to the Hon. Members as to why you are agreeing.

**Hon. Opeya:** I think an odd number is going to be as far if there is a tie breaker in the voting; if you have six Members or if you have eight Members it becomes difficult that is why even the Governor in his wisdom maybe we should have a number like five or seven or nine so it becomes easier. Thank you.

**The Chairperson** (Hon. Mwalimu): Thank you. Yes I can see the House is satisfied, I now put a question that Clause 6 of the Bill, Clause 6 (1) (d) to read, *Five professionals appointed by the Executive Committee Members in consultation with the Governor.* So I now put a question that Clause 6 (1) (d) be amended as moved.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 6 (1)(e) was read)*

*THAT, Clause 6 (1) (e) be amended by deleting the words, "and Secretary to the Board" to read (e) the Managing Director who shall be an ex officio-Member.*

The Board shall appoint the Managing Director.

**The Chairperson** (Hon. Mwalimu): Hon. Members I now propose a question that clause 6 (1) (e) be amended as moved.

*(Question proposed)*

Yes Chairman? Hon. Opeya or any other Member?

No input Hon. Members I now put a question that clause 6 (1) (e) be amended as moved.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 6 was read)*

That Clause 6 of the Bill be amended by inserting a new sub Clause (f) to read, – (f) the County Attorney.

**The Chairperson** (Hon. Mwalimu): Hon. Members I now propose a question that Clause 6 be amended by inserting a new sub Clause (f).

*(Question proposed)*

Yes Members, any input as to why the County Attorney is being added in this Clause?  
Yes Hon. Tobias Samba?

**Hon. Samba:** Yes Hon. Speaker I ...

*(Interruption)*

**The Chairperson** (Hon. Mwalimu): Hon. Samba.

**Hon. Samba:** Thank you Hon. Speaker. Clause 6, I am of the opinion that Attorney General should be added being that...

*(Interruption)*

**The Chairperson** (Hon. Mwalimu): County Attorney.

**Hon. Samba:** Yes County Attorney to be added in that Clause so that atleast when it comes to matters to do with law he or she can advise and so forth, atleast he might be there to advise Mr. Speaker.

**The Chairperson** (Hon. Mwalimu): Thank you Hon. Members. I now put a question that Clause 6 (f) be part of the Bill.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 6 (2) amendment)*

That Clause 6 (2) (a) of the Bill be amended by deleting the words, "in economics, law, finance, accounting, logistics and procurement" to read-

(2) A person to be qualified for appointment as a Chairperson or a Member appointed under sub section (1) (d) the person, shall poses the following:

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(a) Holds a Bachelor's degree.

**The Chairperson** (Hon. Mwalimu): Hon. Members I now propose a question that Clause 6 (2) (a) be amended as moved.

*(Question proposed)*

Any input Hon. Members as to why we are having Bachelor's degree holder? Yes Hon. Tobias Samba?

**Hon. Samba:** Yes also by deleting those in economics, law, finance and accounting Hon. Speaker I think it will be open to everyone now to apply for the position being that the requirements; the only requirement that will be required is just a degree holder. I think it is of great benefit of the people of Mombasa Hon. Speaker.

**The Chairperson** (Hon. Mwalimu): Thank you Hon. Tobias Samba. Hon. Members I can see we are in agreement. I now put a question that Clause 6 (2) (a) be adopted as moved.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 6(2) (b) amendment)*

That Clause 6 (2) (b) be amended by deleting the whole of it and substituting therefore the following new sub Clause-

(b) Has knowledge and experience of not less than five years in the relevant field.

**The Chairperson** (Hon. Mwalimu): Hon. Members I propose that Clause 6 (2) (b) to be adopted as moved.

*(Question proposed)*

Yes any input Hon. Members before we put a question?

**Hon. Opeya:** Thank you Mr. Speaker. I think this one, the original Bill had ten years' which will have locked out a lot of young people. You know getting someone who has ten years' experience; most of the youths do not have ten year's experience so by lowering it to five years at least we are giving it a chance where maybe we can even have the Managing Director below the age of thirty. So it gives you chance to competing but ten years you would have locked out all the youths in this position, so I think I agree with the reason of the Governor to reduce it, maybe should even reduce it to three years. Thank you.

**The Chairperson** (Hon. Mwalimu): Hon. Members I now put a question that Clause 6 (2) (b) be adopted as moved, as amended.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 6(2)(c) amendment)*

That Clause 6 (2) (c) be amended by deleting the whole of it.

**The Chairperson** (Hon. Mwalimu): Hon. Members I now propose that Clause 6 (2) (c) be deleted.

*(Question proposed)*

Any input on as to why the Clause is being deleted?

*(Silence)*

Hon. Members I can see you are all accepting that Clause 6 (2) (c) be deleted. I now put a question that Clause 6 (2) (c) be deleted from the Bill.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 10(3)(b) amendment)*

That Clause 10 (3) (b) of the Bill be amended by deleting the word, "investment" and inserting the words, "senior" to read - have had experience in senior management for a period of not than less than seven years.

**The Chairperson** (Hon. Mwalimu): I now propose that Clause 10 be approved as moved.

*(Question proposed)*

Any input Hon. Members as to why you are deleting investment and inserting senior?

*(Silence)*

I can see you are all in agreement so I now put a question that Clause 10(3)(b) as amended be part of the Bill.

*(Question put and agreed to)*

Yes Clerk?

*(Clause 11 amendment)*

That Clause 11 of the Bill be amended by deleting the words, "County Public Service Board" to read - "The Managing Director" shall hold office for a period of three years on such terms and conditions of employment as the Board may determine and shall be eligible for reappointment for further and final term of three years.

**The Chairperson** (Hon. Mwalimu): I now propose that Clause 11 as amended be part of the Bill.

*(Question proposed)*

Any input Hon. Members?

*(Silence)*

I now put a question that Clause 11 as amended be part of the Bill.

*(Question put and agreed to)*

**Hon. Opeya:** Thank you Hon. Speaker. The Motion that this Whole House dissolves and go back to the plenary. Thank you. I call upon the Majority Leader to second.

**The Leader of Majority** (Hon. Mwidani): Mr. Chairman I arise to second.

**The Chairperson** (Hon. Mwalimu): Hon. Members I put a question that the House dissolves to move back to the Assembly session.

*(Question put and agreed to)*

PLENARY RESUMED

*(The Mace was raised)*

*(The Deputy Speaker (Hon. Mwalimu) in the Chair)*

**The Deputy Speaker** (Hon. Mwalimu): Have your seats. Yes the Hon. Chair for Trade and Investment you are supposed to report back to this Honourable House as to what transpired in the Committee of the Whole House.

**Hon. Opeya:** Thank you Mr. Speaker Sir. I wish to report to the House that the Clauses; that is Clause number 6, 10 and 11 were all unanimously amended as per the recommendation of the Committee. Thank you Mr. Speaker.

**The Deputy Speaker** (Hon. Mwalimu): Yes Clerk. Hon. Members I put a question that this House adopts the Report as reported by the Hon. Chair for Trade and Investment.

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*(Question put and agreed to)*

Yes Clerk.

**BILL**

**MOMBASA COUNTY INVESTMENT CORPORATION BILL, 2019**

Yes Hon. Chair move the Motion for the Bill to be read a third time, under Standing order 132, if you have your Standing order, 132 just go by your Standing order and propose the Motion.

**Hon. Opeya:** Thank you Mr. Speaker. I propose the Motion that the Mombasa County Investment corporation Bill, 2019 be read a third time.

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

**Hon. Opeya:** My seconder will be Hon. Tobias Samba.

**Hon. Samba:** I stand to second Hon. Speaker.

**The Deputy Speaker** (Hon. Mwalimu): Yes Clerk.

**THIRD READING**

*(The Bill was read for the third time)*

Yes Hon. Members the Bill has been read a third time, any amendments or similar amendments that were raised in the Whole House can be raised also in this Honourable Assembly in the third reading.

*(Silence)*

If you have no input then we can proceed. Hon. Members I now rise to put a question on adoption of the Bill as read, the Bill be approved as amended by this Honourable House.

*(Question put and agreed to)*

Yes Clerk.

**ADJOURNMENT**

Hon. Members the House stands adjourned until today Wednesday 16<sup>th</sup> October, 2019 at 2:30p.m.

The House rose at 11:06a.m.