

**MOMBASA COUNTY ASSEMBLY****HANSARD REPORT**Wednesday, 28<sup>th</sup> September, 2016

The House met at 2:40pm.

*(Temporary Speaker (Hon. Fadhili Mwalimu) in the Chair)***PRAYERS****Temporary Speaker** (Hon. Fadhili Mwalimu): Have your seats, Yes Clerk.**MOTION**

Yes any Member from...

*(Interruption)*

What is it Hon, are you a Member from that Committee? Yes Hon Kibwana.

**Hon Kibwana Swaleh:** Thank you Mr. Speaker, being a Member of the Ad hoc Committee I would like just to read the report from the Ad hoc Committee and Hon Speaker it is about Mombasa County Public Service Board that was 2015/2016.

Hon Speaker the report stated clearly the membership of the Ad hoc Committee led by Hon Tom Ogalo.

*(Hon Kibwana Swaleh read the report)***1.0 INTRODUCTION****Mr. Speaker Sir,**

The Mombasa County Public Board, a body corporate established pursuant to Section 57 of the County Government Act 2012.

The composition, terms and mandate of the Board are stipulated in the Act.

The functions of the Board as provided for section 59 (1) of the County Governments are:

- a) Establish and abolish offices in the County public service;
- b) Appoint persons to hold or act in offices of the County public service including in the Boards of cities and urban areas within the county and to confirm appointments;
- c) Exercise disciplinary control over, and remove, persons holding or acting in those offices as provided for under this Part;
- d) Prepare regular reports for submission to the County Assembly on the execution of the functions of the Board;
- e) Promote in the County public service the values and principles referred to in Articles 10 and 232;
- f) Evaluate and report to the County Assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the County Public Service Board.
- g) Facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- h) Advise the County Government on human resource management and development;

- i) Advise the County government on implementation and monitoring of ten national performance management system in counties and;
- j) Make recommendation to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions and gratuities for county public service employees.

## 2.0 OBSERVATIONS AND FINDINGS

**Mr. Speaker Sir,**

The Committee in scrutinizing the report found that;

- 2.1 The Board has since inception employed 50 nurses and it took into account the regional and gender balance which is expected in the public service.
- 2.2 The Board has also employed Sub-County administrators; four of which have taken office. Two are yet to take office and the delay is due to financial constraints. The Board has also employed 30 ward administrators, one for each ward. Nine of the ward administrators are female.
- 2.3 The Board has also employed five medical specialists.
- 2.4 Twelve officers in the Department of Finance have been recruited, and one staff for the Board in the year under review.
- 2.5 The Board does not have a substantive Chief Executive Officer. Mr. Juma Mbaya is currently acting in that position. He had acted as CEO for one and a half years and he was subsequently removed from that position. He was reinstated as an acting CEO and he in his sixth month of acting.

## 3.0 CONCLUSIONS

4.1 The Board has recruited staff in necessary departments and with time and more funds it will be possible to recruit more especially in the essential services such as health.

Hon Speaker,

4.2 The Committee is satisfied with the commendable job that the Board is doing save for the uncertainty created by lack of a substantive CEO.

## 3.0 RECOMMENDATIONS OF THE COMMITTEE

On our recommendation as a committee;

- a) That the Acting Chief Executive Office be confirmed to the position for a term of six years upon approval by the County Assembly to enable the Board carry out its mandate with certainty;  
Among the recommendations;
- b) That there is need to employ more staff in the medical sector;  
Finally Hon Speaker;
- c) The County Assembly to consider and adopt this report.

Thank you Mr. Speaker.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Thank you, as it is a Motion you have a seconder, Hon. Amir Thoya.

**Hon. Thoya:** Ahsante sana Mheshimiwa Spika nimesimama kuunga mkono ripoti ambayo imeletwa hapa Bungeni. Ahsante sana.

*(Question proposed)*

**Temporary Speaker** (Hon. Fadhili Mwalimu): I propose a question that the Motion be debated in this House.

*(Question put and agreed to)*

*(Applause)*

What was the concern Hon. Mary?

**Hon. (Ms) Akinyi:** My concern is that the Member who stood up to second the Motion which was tabled is not even a Member of the Ad hoc Committee that was my worry.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Hon. Mary the Motion is in front of the House it means that any Member of this Hon House can second.

*(Applause)*

Yes Hon. Kibwana you have any input?

**Hon. Kibwana Swaleh:** Hon. Speaker mine is just to sincerely thank the Members for having going through this report and the compiling and those who are also working close with the Ad hoc Committee.

Hon Speaker this is something very important to the Members and it is open to discuss the report; mine is to just to emphasize on the issue making sure that this report is being fully implemented.

Hon. Speaker an office of that magnitude needs to work with all the powers given according to the County Government Act so that if a person who has been working as an acting capacity as a CEO and such environment will need fully mandate to work.

Hon. Speaker the issue of recruitment is very important for our County especially the bigger Member, not necessarily a Member even the Chair of the Health they are facing a lot of challenges which we need somebody like Mr. Mbaya who has been working for many years.

So Hon. Speaker the issue of recruitment in different areas mine is just to clarify to the Members to make sure that at least this report is debated, thank you.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Yes Hon. Sarah Nyamvula?

**Hon. (Mrs) Nyamvula:** Thank you Mr. Speaker, before I give my submissions I want first of all to kindly be allowed to point out something very important on this report.

I know its passed by time but it's something that should be brought to your attention so that next time the gender composition of this subcommittee is lacking; if you look at it the Committee comprises of six and they were all of the same gender that means something is amiss.

Mr. Speaker it's very serious the Kenyan constitution is very clear that 30 per cent should be representative of opposite gender so as that opposite gender can be represented; it's not for the sake of being in a Committee but it's for the sake of your voice being heard that your decisions your voice and your opinions are heard.

So that is something I just wanted to point out, thank you Mr. Speaker as for the report I support the report it's just that they are a few words missing like the first introduction we are not consistent in saying Mombasa County Public Board where we should have Public Service Board, it is just consistence in the typing and whether the confirmation of this gentleman Mr. Mbaya will make any difference.

I don't know whether the six years are mandatory or what, thank you.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Hon. Serah six years is in the County Government Act, yes Hon. Mary.

**Hon. (Ms) Akinyi:** Thank you Mr. Speaker sir, first and foremost I would like to congratulate the Ad hoc Committee which has brought us this report; what only I would like to comment on this report if you come to the finding and observation, you'll find that there is no place they have mentioned any person living with disability in whatever they have indicated here.

So mine is just to support this report but they should look in to the people who are recruited at least we should have some people living with disabilities. Thank you.

*(Applause)*

**Temporary Speaker** (Hon. Fadhili Mwalimu): Thank you Hon Mary. Hon Mary I think you are aware that the Head of communication in the Governor's office Mr. Richard Chacha is somebody from that community so it is something that the committee needs to point out but in future they will rectify that but am sure the County Public Service Board have put in to consideration in employing people with disabilities. Yes Hon Patrick Siminyu.

**Hon. Siminyu:** Thank you Mr. Speaker for giving me this opportunity. Mr. Speaker I would like to congratulate this Ad hoc Committee for an elaborate report and next time I would like a Member like Hon Karume should be considered in such committees so that people who are challenged can be incorporated in such a report.....

*(Applause)*

Mr. Speaker from the recommendations am happy and if it is going to be implemented and the issue of women have been highlighted out we have been having many people in the coastal region in the hospitals wards and people were complaining but we have discovered that there are other structures that one doctor can serve a thousand people and it is very challenging and if this board is not given any opportunity to employ especially those areas that are in need we are going to see change that we have never seen in this County.

Mr. Speaker I support this report because it is going to do good to the County. Thank you.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Yes Hon Amir Thoya.

**Hon. Thoya:** Ahsante sana Mheshimiwa Spika kwa kunipa fursa hii.

Mheshimiwa Spika nimesimama kwa kuunga mkono ripoti ambayo imeletwa na Kamati, *provision* hii ni *provision* muhimu kwa sababu hata ukiangalia ripoti kama ilivyosomwa na Mwenyekiti inaonyesha kwamba Bodi hii ni bodi ambayo ni uti wa mgongo katika kazi nyingi za serikali yetu ya Kaunti.

Masuala yote Mheshimiwa Spika yanapita katika bodi hii, masuala ya uajiri kwa wauguzi katika hospitali zetu, masuala ya mawaziri na *Ward administrators* zote yanapitia katika kitengo hichi.

Kwa hivyo ni masikitiko kwamba imechukua muda ripoti hii ilikuwa inatajikana ije mwaka mmoja ama miwili iliopita sasa madamu imechelewa Mheshimiwa Spika kwetu kama Bunge tuweze kuiunga mkono tuweze kupitisha ili tuhakikishe kwamba *Chief Executive* Bwana Juma Mbaya ameweza kuchukua kiti chake, kwa hivyo hivi sasa ni Mwenyekiti mshikilizi.

Kwa hiyo Mheshimiwa Spika naunga mkono maana ni mambo mengi ambayo ameweza kuyafanya hata kabla hajatawazwa rasmi nashukuru lakini tuweze kuchukua fursa hii leo tuweze kupitisha ili aweze kutawazwa rasmi kama mkuu wa kitengo hicho. Ahsante sana Mheshimiwa Spika.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Yes Hon Karume.

**Hon. Karume:** Thank you very much Hon Speaker for according me this opportunity, I rise to support this report as my fellow colleagues.

The report is very good, however Mr. Speaker Sir Hon Mary and Hon Patrick Siminyu have said that they need people living with disability and requested on representation on the Ad hoc committee but the constitution is very clear on this that such committees to consider such issues addressed.

Also the provisions of the representation of the people living with disabilities because we are talking of something which is constitutional and the constitution itself speculates clearly on issues touching on people living with disabilities so this is one of the core mandate of the County Public Service Board.

So Mr. Speaker I would want to point out that one of the important things that I have said in this report is of course touching on the preparations of reports and submissions of the same in the County Assembly, it's the core function of this County Public Service Board.

I refer this Honorable House to County Government Act section 69 (1b) which talks about preparations and submissions of reports.

I am not sure if the committee sided with the similar report and then these reports again refers to the same report of course I refer to section 59 (3) which also talks about the report.

What needs to be incorporated in those reports, and this is where Mr. Speaker Sir I would have wanted to be part and parcel of this committee because such as those things will not be going missing in this very important report because if you refer to the County Government Act that section that am pointing out and I just read for the purpose of this Honorable House to confirm County Government Act section 59 (3) it reads the report under sub section 1d shall contain the persons appointed including gender, persons with disabilities, persons from the minority and marginalised community.

So Mr. Speaker am really grateful that this report we have never heard that these reports have never been presented in this House and all reports have been presented, such concerns have been included and the reason as to these is that am answerable to my constituency and normally on the daily basis how many as the County Government have employed from the disability fraternity as their representatives, I really have something to tell them so I would really request.

**Hon. Karume:**...Mr. Speaker I would really request that as we give them a positive note for the good job well done of which I also agree and share those statements but then I would really require and request this able Honorable House through our able chairperson of Committee of Labour to ensure that the County Public Service Board in whatever they do in terms of recruitment they make sure that they include persons living with disability.

Lastly, I understand other than the Chief officer who has been in an acting capacity all that time, and I still believe also the chair that is madam chair is still acting if am not wrong: I don't know whether she has ever been confirmed and if she isn't confirmed I would really request this Honorable House to coordinate with our county president so that to make sure our esteemed lady is also confirmed.

We make sure that things move in the right direction. With those very few remarks I would like to rest my case Mr. Speaker.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Hon Jimmy.

**Hon. Mohamed Hatimy:** Thank you Hon Speaker for allowing me to air my views with regard with the report at hand.

Mr. Speaker I wish to state that I support this report by the committee that was headed by Hon Tom Ogalo with regard to the County Public Service Board.

Mr. Speaker I wish to concur with the recommendation of this report that there is a need to have a substantive Chief Executive Officer to the Public Service Board.

As you know Mr. Speaker this business of acting or acting capacity has got some limitation on the person or the holder of that docket because when you are on an acting capacity there are so many things that you are not able to execute due to the fact that you are not a substantive holder of that office, therefore we should not be keeping people in an acting capacity for too long Hon Speaker like we do at present.

Therefore I support the idea of confirming the holders of the office to that position so that to enable him to execute his duties for its mandate as required by the position and as required by the law.

Hon Speaker however as regarded in recommendation (b) of the report which states inter alia *that there is a need to employ more staff in the medical sector*, as much as I would like to support that point I would also like to point out that there are many other more departments that require more staff.

At the moment there has been a lot of retirement of staff in the department and no replacement for the positions there many very important or key position that need replacement at the moment therefore as we urge the vote to increase the staff in the health sector we should also consider other departments which have forwarded their requisitions for the request of field positions to be also considered to be allowed to employ people to fill those positions. Thank you Hon Speaker I rest my case.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Yes Hon Kibwana respond to the Motion.

**Hon. Kibwana Swaleh:** Thank you Hon. Speaker, once again mine is just to appreciate the contributions from the Members. Hon Speaker what was said by Hon Saad was quite clear, very positive.

I think when you look at this report it is not over detailed showing how many and what type of people have been employed but for the information of this Honorable House, the



detailed report concerning the number of people who have been employed and the evidence whether people living with disability and other cases, the issue of gender.

Hon Speaker I just want to inform my colleagues that the report is with the Clerk and it is a very open report.

I would urge our able Member Hon Karume who has also requested we include in future for any Ad hoc Committee, it is also open to any Member to look at the report and you find that as we had said earlier that the law as per the new constitution the matter of gender balance which includes people living with disability.

Hon Speaker the report is with the Clerk so the Member who will be free.....

*(Interruption)*

Point of order!

**Temporary Speaker** (Hon. Fadhili Mwalimu): Yes Hon Karume?

**Hon. Karume:** Thank you Hon Speaker am rising on the point of order. Since in my understanding the report is not supposed to be with the Clerk it is supposed to be submitted to the House for discussion....

*(Applause)*

So I think the Member might be misleading this House.

*(Applause)*

**Hon. Kibwana Swaleh:** I think Hon Speaker I was just trying to explain and elaborate a point what I was saying is that when you look at this report, it was only looking on how the CEO and working and it was also looking at it from the acting capacity so the committee was not looking at how many people have been employed within the County government.

So I was trying to give some insight on the issues that have been raised and are not contained in this report but are contained in another report which was not the mandate of this Ad hoc committee.

I think that was what I was trying to explain Hon Speaker, so mine was just to thank Members for contributing and I think this able House will be able to intervene where necessary.

I would like to thank the Members again for giving their input and hope that this Hon House would be able to accept and implement this report. Thank you Mr. Speaker.

**Temporary Speaker** (Hon. Fadhili Mwalimu): Thank you. Hon Members we have exhausted debating this issue before the Assembly it is upon Members to go through the report and it is upon whoever wishes to go through that report from the Service board.

The report is with the Assembly, that Clerk of that Committee or the Chairman of that committee will be contacted to give that report to the Service board that report is with us and any Member who is willing to go through that report can do so at his own willing time to go through that report.

Hon Members much has been said and Hon Members I have also recommended that let the Table Clerk go with to communicate with the Clerk that in future no Ad hoc committee shall approved without considering the gender balance and the disability factor.

*(Applause)*

So the Table Clerk will write to the Assembly Clerk on this issue. Hon Members I would like to put a question that this House adopts the Motion of the report by the Public Service Board.

*(Question put and agreed to)*

**MOTION**

**ADJOURNMENT**

The House has adjourned until tomorrow 2:30pm in the afternoon.

The House rose at 3:20pm.