

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

SECOND ASSEMBLY – FIFTH SESSION

Wednesday, 21st April, 2021

House met in the Main Chamber at 2:30 p.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYERS

The Speaker (Hon. Oraro): Hon. Members. Pursuant to the provisions of Standing Order No. 32 (2), I want to request that the Serjeant-at-Arms rings the quorum bell for five minutes.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): Hon. Majority Whip, could you please confirm if we have quorum?

Majority Whip (Hon. Misachi): Mr. Speaker, we have quorum.

The Speaker (Hon. Oraro): Thank you. Mr. Clerk, kindly take us through the Order Paper of the day.

The Speaker (Hon. Oraro): Next order!!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I want to make communication on a matter that was aired in one of the media houses and also going around in the social media on the passage of the Proposed Constitution of Kenya (Amendment) Bill, 2020. I want to say that on 27th December, 2020, we received a communication from IEBC on the Proposed Constitution of Kenya (Amendment) Bill, 2020 which was sent to all the Assemblies for the purposes of consideration with the instructions therein. I did convene a Special Sitting through Kenya Gazette where we considered the BBI Bill through the process that requires the passage of any other Bill except for the fact that the BBI Bill did not require us to make any amendment therein.

Hon. Members, I also want to communicate that the debate on the Proposed Constitution of Kenya (Amendment) Bill, 2020 was on content and not on punctuations, grammar or order of presentations of the lines therein. Before the Bill was passed, I enquired when I saw on certain Twitter handle that there were two Bills, one published on 21st October, 2020 and the other one on 25th November, 2020 and I got information that the right Bill sent by IEBC to the County Assembly of Kisumu was the one that was published on 25th November, 2020 and that is the Bill that was presented into the House, debated and agreed upon. I did effect the certificate and forwarded it to the Bi-cameral Parliaments (National Assembly and the Senate) and a copy was equally sent to the Independent and Electoral Boundaries Commission (IEBC).

The IEBC after getting the 24 County Assemblies communicated the same to National Assembly and the Senate where the Bill is at present. I want to bring to the attention of the Members that the discussions of the Bill at the Senate and the National Assembly was effected as a result of communication from IEBC and has nothing to do with our discussions as Kisumu County Assembly because we discussed the Bill that was presented to us by the same IEBC and we have certified copies of the said communication. Thank you.

The Speaker (Hon. Oraro): Next order!

PAPER LAID

The Speaker (Hon. Oraro): Hon. Seth Okumu.

Hon. Okumu: Thank you Mr. Speaker, pursuant to the provisions of the Kisumu County Assembly Standing Order No. 182 (6), I wish to lay today Wednesday 21st April, 2021, Administration of Law, Justice, Constitutional Affairs, Good Governance and Security Committee report on the vetting of Mr. Philip Otiende Adundo nominee for the position of Chief Officer, Strategy Policy and Delivery. Thank you, Mr. Speaker.

The Speaker (Hon. Oraro): Honourable Members, I acknowledge the receipt of Administration of Law, Justice, Constitutional Affairs, Good Governance and Security Committee report on the vetting of Mr. Philip Otiende Adundo nominee for the position of Chief Officer, Strategy Policy

and Delivery. I direct that the House Business Committee to consider scheduling this report for debate.

NOTICE OF MOTION

The Speaker (Hon. Oraro): Yes, Hon. Seth Okumu.

Hon. Okumu: Thank you Mr. Speaker, pursuant to the provisions of the Kisumu County Assembly Standing Order No. 45, I wish to give a Notice of Motion for Administration of Law, Justice, Constitutional Affairs, Good Governance and Security Committee report on the vetting of Mr. Philip Otiende Adundo nominee for the position of Chief Officer, Strategy Policy and Delivery. Thank you.

The Speaker (Hon. Oraro): Next order!

MOTION

3RD READING OF THE KISUMU COUNTY INVESTMENT AND DEVELOPMENT CORPORATION BILL, 2021

BY

HON. PAUL OKIRI

CHAIRPERSON, COOPERATIVES, FINANCE, TRADE AND ENTERPRISE DEVELOPMENT COMMITTEE.

The Speaker (Hon. Oraro): Hon. Paul Okiri.

Hon. Okiri: Thank you Mr. Speaker, may I request the Clerk to read the Bill for the 3rd time.

THE KISUMU COUNTY INVESTMENT AND DEVELOPMENT CORPORATION BILL, 2021

A Bill for

AN ACT of the County Assembly of Kisumu to provide for the establishment of legal and institutional framework for investment and development management and for connected purposes.

(The Clerk reading the Kisumu County Investment and Development Corporation Bill, 2021)

The Speaker (Hon. Oraro): Honourable Members, the Kisumu County Investment and Development Corporation Bill, 2021 has been read for the 3rd time. I now want to ask if there is any amendments.

The Speaker (Hon. Oraro): Yes, Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker. We rearranged the Clauses and now under Clause 24 and it reads, 23. (1) *Subject to the approval of the county executive committee, the Corporation may raise capital by way of-*

I want to request the Honourable Members that the approval should not only come from the County Executive Committee but also the County Assembly. I am requesting that we amend that to read, *Subject to the approval of the county executive committee and County Assembly, the Corporation may raise capital by way of-*

That is one amendment that we can consider as the House and I want to ask Hon. Paul Okiri to second.

The Speaker (Hon. Oraro): Yes, Hon. Paul Okiri.

Hon. Okiri: Thank you Mr. Speaker. I stand to second. It is in order for the Assembly to also do the approval. Thank you.

The Speaker (Hon. Oraro): Honourable Members, now that an amendment has been proposed during the 3rd Reading by Hon. Seth Okumu that in Clause 24, the word *and County Assembly* be immediately after the *County Executive Committee* and this has been seconded by Hon. Paul Okiri. I want to propose that amendment be opened for debate.

The Speaker (Hon. Oraro): Yes Hon. Ojuok

Hon. Ojuok: Thank you Mr. Speaker. I want to support the amendment by Hon. Okumu. Indeed, some of the functions being taken over by the Corporation were functions of various departments. There is a provision in the Constitution of Kenya 2010 that, in the event the County Government needs a loan there must be approval by the Assembly.

Even as we move these functions to a Corporation, I believe that the recruitment in terms of scrutiny is very important. I wish to add that issues to do with investment also should involve approval by the Assembly. This should extend to the approval of the Budget of the Corporation. The reason I am saying this, Mr. Speaker, is that in Clause 24, in the investment strategy plan, they must provide among others, a source of investment of capital, targeted investment opportunities, investment portfolio.

Mr. Speaker, looking at all these, there is need for a lot of scrutiny to be undertaken in whatever they are doing. Annual reports alone, which is the only requirement that is indicated that will pass through the Assembly, and we will be looking at something that has already happened. We want a situation whereby if there are budgets or investments not done properly then, we are able to foresee those problems before causing any problem to the economy.

Mr. Speaker, I believe that the reason a number of parastatals have collapsed is because of some of these requirements. At the National level, sometimes such requirements are not there.

The Speaker (Hon. Oraro): What is it Honourable Leader of Majority

Leader of Majority (Hon. Onyango): Mr. Speaker, we are dealing with a Bill that requires very specific amendments. The Member should tell us, other than the support of amendments by Hon. Okumu, if he has any amendment that he would want to bring then, he needs to be very specific on that. Thank you

The Speaker (Hon. Oraro): I want to rule you out of order Honourable Leader of Majority. There is an amendment that was proposed by Hon. Okumu, seconded by Hon. Okiri and as per the procedure of doing amendments in the Bill, I have opened it for debate. I will put a question on it and declare if it is part of the Bill or not. As at now, I am still dealing with Section 24...

Leader of Majority (Hon. Onyango): Mr. Speaker, if you heard the Honourable Member he was already on investment strategy while the amendment raised by Hon. Okumu was on capital. Those are two different things.

The Speaker (Hon. Oraro): Honourable Majority Leader, you are out of order. Hon. Okumu did not talk about capital but the approval of a number of sources in Section 24. What I want to hear is that are Members agreeing with proposed amendments by Hon. Okumu or disagreeing. We will allow a few Members to comment then we either agree or disagree.

The Speaker (Hon. Oraro): Can you please conclude Hon. Ojuok?

Hon. Ojuok: Thank you Mr. Speaker, I am done.

The Speaker (Hon. Oraro): Okay. Hon. Agolla.

Hon. Agolla: Thank you. Mr. Speaker, I want to support the proposed amendments raised by Hon. Okumu. Mr. Speaker, Article 185 of the Constitution of Kenya is clear on our legislative authority as County Assemblies. It will not be in order if we give the powers bestowed on us by the Constitution of Kenya to the Executive. It is our mandate to approve any proposal or proposal because we represent the masses.

Mr. Speaker, I therefore wish to say that I support the amendments for the approval by the Assembly to be inserted in Section 24 of the Bill considering that it is our role bestowed upon us by the Constitution of Kenya 2010. Thank you

The Speaker (Hon. Oraro): Hon. Owiti.

Hon. Owiti: Thank you Mr. Speaker. I rise to support the proposed amendments to the Bill. Mr. Speaker, it would not be right for us as an Assembly to approve this Bill without correcting any anomalies. Approval of any borrowing within the County can only be done by the Assembly. If you look at Section 24 of the Bill, we have seen how the Corporation can get funds including but not limited from the County Government which means we can allocate funds for it in the Budget.

This means it will be funded by the Government which means it is County Government kind of Corporation.

Mr. Speaker, it would be important that any money they want to borrow, they should be doing it on behalf of the County Government of Kisumu and this cannot be done without the approval of the Assembly. If we were to hand over the powers of approval to the Executive, it means it will be inconsistent with other relevant pieces of legislation. I therefore support the amendment. Thank you.

The Speaker (Hon. Oraro): Hon. Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. I want to support the amendment. Recently, there was an outcry in the National Assembly that when the National Government borrows, they are never brought in the picture but when it comes to repayment, it is brought to the National Assembly for approval. So, they approve payment that they do not know how it was borrowed.

When we include the aspect of approval by the Assembly, it will be an element of check and balance whenever they want to borrow. In addition, it will act as a control measure on the institution. Thank you

The Speaker (Hon. Oraro): Hon. Guya

Hon. Guya: Thank you Mr. Speaker. I wish to call the Mover to reply

The Speaker (Hon. Oraro): Hon. Okumu

Hon. Okumu: Thank you Mr. Speaker. I want to appreciate and agree with Honourable Members. Their contributions will go a long way in helping Kisumu County not to incur debts as witnessed in the National Government. I am grateful and would wish to encourage Members to pass the amendment on the Bill. Thank you.

The Speaker (Hon. Oraro): Honourable Members, as per our Standing Orders, an amendment has been proposed on Section 24 of the Kisumu County Investment, after the third reading, seconded, debated and I now want to put a question.

(Question put and agreed to)

It shall therefore read, Subject to the approval by Executive Committee and Assembly, the Corporation may raise capital by way of... The other sections remain as they are.

The Speaker (Hon. Oraro): Yes, Hon. Olima

Hon. Olima: Thank you Mr. Speaker. I rise to give a proposed amendment in Section 25 of the Bill. Section 25 reads The Corporation may prepare at least 10 year strategy and plan which must

be approved by the County Executive Committee. On that Mr. Speaker, I wish to propose an amendment that the plan be approved by the Assembly as well so that these investments can be seen to be representative of the County as a whole.

I therefore propose that we amend the Section 25 by adding The County Assembly. I call upon Hon. Kanga to second.

The Speaker (Hon. Oraro): Hon. Kanga.

Hon. Kanga: Seconded.

The Speaker (Hon. Oraro): Honourable members, Hon. Olima has proposed an amendment on Section 25 that the words and Assembly be added after the words County Executive Committee to read the Corporation must prepare at least 10 year strategy and plan which must be approved by the County Executive Committee and Assembly. This has been seconded by Hon. Kanga and per our Standing Orders I want to propose a question that the amendment on Section 25 by adding the words and Assembly after the words County Executive Committee is open for debate.

The Speaker (Hon. Oraro): Yes Hon. Khan.

Hon. Khan: Thank you Mr. Speaker. I rise to support the amendment. 10 years planning is something we cannot amend annually. Such requires the input of the Assembly. It is appropriate that we do the planning approval in this August House. Thank you

The Speaker (Hon. Oraro): Hon. Arao.

Hon. Arao: Thank you Mr. Speaker. As you may know, the County Government comprises the County Assembly and the Executive. We are therefore mandated to take collective responsibility. It is therefore in order for Hon. Olima to propose such amendments

The Speaker (Hon. Oraro): What is it Hon. Owiti? Please let him conclude, I will give you time. Proceed Hon Arao

Hon. Arao: Mr. Speaker, we have a collective responsibility as the County Assembly to work together with the Executive so that in the end both arms of government are responsible. Therefore, I support the amendment, thank you.

The Speaker (Hon. Oraro): Yes, Hon. Atieno Bishop Atieno

Hon. Atieno: Thank you Mr. Speaker, I want to thank Hon. Olima for bringing that to our attention because it is surely an oversight. The Assembly plays an integral part in development and we cannot leave the Executive to do the planning for the county for 10 years without the approval of the County Assembly. Mr. Speaker, it is quite in order and I support. Thank you.

The Speaker (Hon. Oraro): Yes, Hon. Steve Owiti.

Hon. Owiti: Thank you Mr. Speaker. I also want to support the amendment. Mr. Speaker, we realize that there is an attempt by one arm of this government to exclude the other arm with explicit duties spelt out in the Constitution. A decade isn't a short time, and even in our planning we also go for 5 years where we have the County Integrated Development Plan (CIDP) and so on coming down. When we are coming up with an investment plan running for a decade, it means that it will run for two different governments. Mr. Speaker, in an event that this particular plan needs to be put in place, this Assembly must approve of such a plan so that we aren't seen as those disregarding the Constitution of Kenya which calls for public participation. The first people who will ensure that it is done are the MCAs because they are the representatives of the people of Kisumu County.

Mr. Speaker, I believe that, the Executive should be made aware that the importance of this House cannot be underrated. They should always remember that for every amendment made, there are two arms of government that must know about it but not just one. I support. Thank you.

The Speaker (Hon. Oraro): Yes, Hon. Agolla.

Hon. Agolla: Mr. Speaker, I also want to support the amendment because the two clauses are similar. However, I have a reservation of the same and I stand guided. The life of government is often 5 years, and by giving leeway to this Corporation's Masterplan of a decade should be amended to read 5 years instead of 10 year because that's the maximum life of any government and this is the County government corporation.

The Speaker (Hon. Oraro): Hon. Agolla let me guide you on that. When we are handling a bill, we will go with each amendment independently, so we will first start with what Hon. Olima had proposed of; adding 'and Assembly' after the 'County Executive Committee'. Therefore, in case you have another proposal, it will follow Hon. Olima's. In addition, the bill isn't for the current government but for Kisumu County, and Kisumu County is perpetual. So, it is there as long as the Constitution of Kenya still allows the existence of County Governments. I hope you stand guided Hon. Eric Agolla.

Hon. Agolla: Yes, Mr. Speaker I am guided by that explanation. You are aware that we are still amending clause 25; which is where I was dwindling my contribution and I was not forcing Members but it was just my take that we consider that.

The Speaker (Hon. Oraro): Thank you.

The Speaker (Hon. Oraro): Yes Hon. Ogutu.

Hon. Ogutu: Mr. Speaker, some Members confuse the Budget and a plan. A plan can even go three decades and successive governments will implement it and therefore it doesn't matter how long someone will be in office. I urge my brother to learn that...

The Speaker (Hon. Oraro): Hon. Ogutu, I believe that he had accepted as was guided by the Speaker.

Hon. Agolla: Mr. Speaker, I have been mentioned adversely.

(Laughter)

The Speaker (Hon. Oraro): What is it Hon Agolla, you have been protected by the Speaker...

(Laughter)

Hon. Agolla: Mr. Speaker, I am not the kind of person who doesn't understand the difference between a budget and a plan. We are aware that the Masterplan of the county is the County Strategic Plan and these other ones are secondary, and that marks the basis of my argument. So, when members are convinced that we need to leave it at 10 years then they need to remember that even the County's Strategic Plan is set at 5 years.

The Speaker (Hon. Oraro): Hon. Agolla, you had already accepted the guidance but now spoiling this debate once again.

(Laughter)

Hon. Members, the provisions of Section 110 of the County Government Act 2012 provides numerous plans, which must be approved by the County Assembly especially from areas that have a city. I want to agree with Hon. Ogutu, that the plan can be up to 100 years, and it is not the responsibility of the existing government to implement it. Hon. Members, can we now restrict ourselves to the proposed amendment by Hon. Gard Olima?

The Speaker (Hon. Oraro): Yes, Hon. Guya.

Hon. Guya: Mr. Speaker, going by the moods of the House, can I call the Hon. Olima to reply?

The Speaker (Hon. Oraro): Yes, Hon. Gard Olima.

Hon. Olima: Thank you Mr. Speaker, I want to thank Hon. Members for the support on the amendment. As a County and for posterity, the Assembly should be involved as members have positively deliberated and resolved. I also want to tell Hon. Agolla that, this is an investment and we cannot peg it on an individual or a specific government. Otherwise, I call upon honorable Members to support this amendment. Thank you.

The Speaker (Hon. Oraro): Honorable Members, now that the proposed amendment of adding 'and Assembly' immediately after the terms 'County Executive Committee' in Section 25 of the Kisumu County Investment and Development Corporation Bill, 2021 to become part of the bill.

(Question put and agreed to)

Hon. Members, it will therefore read; The Corporation must prepare at least 10-year strategy and plan, which must be approved by the County Executive Committee and Assembly'. Honorable members, it looks like there are no more amendments on the Kisumu County Investment and Development Corporation Bill, 2021. As per our Standing orders...

The Speaker (Hon. Oraro): What is it Leader of Majority?

The Leader of Majority (Hon. Onyango): Mr. Speaker, if you look at the vacation of office, a member of the board may...

The Speaker (Hon. Oraro): Hon. Leader of Majority, which clause are you referring to?

The Leader of Majority (Hon. Onyango): Under the First Schedule on page 15 of the Bill; provisions as to the Conduct of Business and Affairs of the Board. Section 1 (a) reads; *A member of the board at any time resign from office by notice in writing to the county Executive committee member.* I thought that that should be specified to 'Executive Committee Member for Finance.

The Speaker (Hon. Oraro): Hon. Leader of Majority I believe that we have the definition of...

The Leader of Majority (Hon. Onyango): Hon. Speaker, allow me to withdraw my proposal.

The Speaker (Hon. Oraro): Okay, thank you. Yes, Hon. Okumu.

Hon. Okumu: Mr. Speaker, I have another amendment that I want to request the House to adopt.

The Speaker (Hon. Oraro): Hon. Okumu, we are debating and still within the rules which you are well vast. You had an opportunity which you managed to use in the debate therefore I will not allow you to do so for a second time. You can therefore liaise with a Member who hasn't spoken to donate their time for you.

The Speaker (Hon. Oraro): Yes, Hon. Guya.

Hon. Guya: Thank you Mr. Speaker, under the Composition of the Board, on page 5, Clause 6; Part A, we are mandated by this bill to approve the Chairperson and Vice chairperson of this Board but when you come to part IV, the mandate isn't there.

Mr. Speaker, I therefore want to propose in part 1 (a) of Clause 6, that the four persons who are professionals, qualified in Economics, Investment Management, Finance and Accounting and Law, appointed through a competitive process and approved by the County Assembly. You will realize that just as we approve other board members like the City Board, we cannot approve just the Chair and his/her vice but leave other members. I want to request the Leader of Majority to second my proposal.

The Speaker (Hon. Oraro): Yes, Hon. Leader of Majority.

The Leader of Majority (Hon. Onyango): Mr. Speaker, that is in order, I second the proposed amendment.

The Speaker (Hon. Oraro): Hon. Members, if you look at Section 6: Composition of the Board, Hon. Guya has proposed an amendment in Section 6 (i) (e) that the words ‘with approval of the County Assembly’ be added after the words ‘through a competitive process’. That has been seconded by the Leader of Majority. Now I put a question that the amendment is open for debate.

The Speaker (Hon. Oraro): Hon. Olima.

Hon. Olima: Thank you Mr. Speaker. Looking at the mood of the House, I call the Mover to reply.

Hon. Guya: Thank you, Mr. Speaker and Hon. Members. I want to appreciate...

The Speaker (Hon. Oraro): Hon. Guya, I was just checking to confirm if that has been misused by Hon. Gard Olima but I didn’t see anybody.

The Speaker (Hon. Oraro): What is Hon. Atieno Atieno?

Hon. Atieno: Mr. Speaker, the mood of the House was not ripe for the Mover to reply, because I wanted to contribute.

The Speaker (Hon. Oraro): Yes, that is why I temporarily stopped Hon. Guya, because if it has been misused by Hon. Olima then, I am supposed to guide this House on the same. So, I arose to check if anybody wanted to oppose. So, I will allow you then Hon. Guya will proceed.

Hon. Atieno: Thank you, Mr. Speaker. We are paid to come and legislate in this House. I don’t know the rush being brought by Hon. Olima. I want to support the proposal of Hon. Guya that this must come to the Assembly for checks and balances to be instituted because you cannot have your cake and eat it. If left unchecked, then there is likely abuse of office- somebody can just nominate people that come from one area. I support. Thank you.

The Speaker (Hon. Oraro): Hon. Owiti.

Hon. Owiti: Thank you Mr. Speaker. I also want to support; the amendment which is both timely and right. We are talking of a board that is mandated to even acquire loans from outside the county and on behalf of the county. This is a board that is supposed to bring to us a 10 year plan. There is no way we are going to approve only two members of that board who are the Chairperson and the Vice chairperson and then the other four members who are the majority of the board are left to be competitively sourced. The so called competitive sourcing can be manipulated to serve the interest of an individual. For that matter, as an Assembly, we cannot abdicate our role of oversight in this exercise to be put in the hands of people we do not know. We must therefore vet them. I support. Thank you.

The Speaker (Hon. Oraro): Yes, Hon. Pete Oiko.

Leader of Minority (Hon. Oiko): Thank you, Mr. Speaker. The Board of Investment and Development Corporation is a very important institution in the County Government. It is important to stress that all members of the board must be vetted and approved by the Assembly. Thank you.

The Speaker (Hon. Oraro): Hon. Guya.

Hon. Guya: Thank you, Mr. Speaker. I wish to thank the members for their contributions. I urge members that we support and pass the amendment. Thank you.

The Speaker (Hon. Oraro): Hon. Members. Now that the proposed amendment on Section 6(i) (e) of the Bill has been seconded and debated, I want to put a question that the amendment be part of the Bill.

(Question put and agreed to)

The Speaker (Hon. Oraro): Yes, Hon. Philemon Ojuok.

Hon. Ojuok: Hon. Speaker, I want to propose an amend on Section 18 (iv) which reads “no expenditure must be incurred for the purposes of the corporation except in accordance with the Annual Estimates approved under sub-section 3 or in pursuance of authorization of the board given with prior approval of the county Executive Committee Member”.

Mr. Speaker, I wanted to recommend that the County Assembly be added here because even the city, we approve the expenditure of the Board in the Assembly and also approve their budget in this House to ensure that we are able to stop embezzlement of funds before they occur.

The Speaker (Hon. Oraro): Hon. Ojuok, I want to rule you out of order. We don't have that sub section in Section 18.

Hon. Ojuok: Hon. Speaker, I am referring to the issue of Annual Budgets – Section 19 which was originally 18.

The Speaker (Hon. Oraro): So which clause are you referring to?

Hon. Ojuok: Mr. Speaker, I am referring to Section 19 sub section (IV).

The Speaker (Hon. Oraro): What is wrong with sub-clause?

Hon. Ojuok: I wanted the clause “with the approval of the Assembly” to be added, just like it is with the city.

The Speaker (Hon. Oraro): What is it, Hon. Pete Oiko?

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. With due respect, Hon. Ojuok, the Assembly cannot approve the expenditure. What you are trying to say is that before they spend the money, they should come to the Assembly for approval. That will be tedious and we shall stifle the work of the corporation. What we expected is that by the end of every financial year, when the Auditors have worked on their books of accounts, the Audited Accounts shall come here for the Assembly to interrogate and make a recommendation. Thank you, Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Oiko, I hope that was a point of information. Hon. Ojuok, are you guided?

Hon. Ojuok: Mr. Speaker, I am talking about the Annual Budget.

The Speaker (Hon. Oraro): Hon. Ojuok, let us not read the Bill in isolation...

The Speaker (Hon. Oraro): What is it Hon. Steve Owiti?

Hon. Owiti: Mr. Speaker, I want to inform the House that the corporation, just like any other corporation has laws governing it. The reason why we are insisting on the Assembly vetting and approving the Board Members is because, not everything they do will be handled by the Assembly. One of them is the Budget Estimates. As a corporation, they will prepare their Budget Estimates but it is the duty of the Board to approve those Estimates. Thank you.

The Speaker (Hon. Oraro): Hon. Ojuok.

Hon Ojuok: Just a simple take on the same, Mr. Speaker. I appreciate; even if it is defeated...

The Speaker (Hon. Oraro): Hon. Ojuok, I want to help you. Let us debate. What do you want? What is the amendment?

Hon. Ojuok: Hon. Speaker, I have said several times. Clause 19 sub-clause (IV), that the County Assembly be incorporated in the approval.

The Speaker (Hon. Oraro): Hon. Philemon, refer to right clause. Sometimes you talk about Clause 18 sometimes Clause 19.

Hon. Ojuok: Under Annual Budgets. It had been changed from Clause 18 to 19.

The Speaker (Hon. Oraro): Hon. Ojuok, we are in 3rd reading. Everything that was adopted in 2nd reading is already part of the Bill.

Hon. Ojuok. Okay. Thank you.

The Speaker (Hon. Oraro): Whom do you want to inform, Hon. Okumu?

Hon. Okumu: On a Point of Information. I believe that it is not the work of the National Assembly neither the County Assemblies to approve their Budget Estimates.

The Speaker (Hon. Oraro): Whom do you want to inform?

Hon. Okumu: Mr. Speaker, I want to inform Hon. Philemon.

The Speaker (Hon. Oraro): Hon. Philemon, do you want to be informed by Hon. Seth?

Hon. Ojuok: First, allow me deal with the information Hon. Seth.

The Speaker (Hon. Oraro): He does not want the information.

Hon. Agolla: On a point of order.

The Speaker (Hon. Oraro): Hon. Erick, you want to...?

Hon. Agolla: I am on a point of order Mr. Speaker.

The Speaker (Hon. Oraro): Yes, what is it?

Hon. Agolla: We are violating the Standing Orders. We are on the 3rd reading of a Bill, but when a member has a proposal, we just move his/ her proposal...

The Speaker (Hon. Oraro): That is what I am trying to do that you can raise the amendment that you want debated, then, you call a seconder and it is then debated. Either members adopt or reject it. So, go straight to the point Hon. Philemon.

Hon. Ojuok: Mr. Speaker, I want to propose an amendment on clause 19 sub-clause (4). No expenditure must be incurred for the purposes of the corporation except in accordance with the Annual Estimate approved under Annual Estimates approved under sub clause (3) or in pursuance of the authorization of the board given with the prior written of the County Executive Committee Member. I want the County Assembly to be added there in the approval.

The Speaker (Hon. Oraro): Where?

Hon. Ojuok: After the County Executive Committee Member.

The Speaker (Hon. Oraro): Proceed.

Hon. Ojuok: Let me call Hon. Ogutu to second.

(Laughter)

The Speaker (Hon. Oraro): Hon. Members, you know, let it not look like we are dragging Hon. Philemon to propose amendment. It is his right to propose amendment. However, since he has proposed, we allow it for debate and we reject it or accept it. So, let me propose a question.

THAT Hon. Philemon has proposed an amendment on clause 19 (4), that the word ‘Assembly’ be added after the word ‘Executive Committee’ and I now want to propose it for debate. Hon. Senior member I saw you on your feet.

Chief Whip (Hon. Misachi): Mr. Speaker I just wanted to understand something under Capital, because what I am getting is that Hon. Philemon wants whatever this corporation is going to use to be approved by the County Assembly. But then if you go to clause 24 (f) under Capital – Appropriations from the County Assembly or any other way as may from time to time be approved by the county system.

It means that it is the same House which is the County Assembly which is going to appropriate funds for this corporation through that executive member. That is what I wanted to understand because if it talks about appropriation, it means that it is the budget that we are appropriating.

The Speaker (Hon. Oraro): Hon. Pete Oiko. To Hon. Agolla, and Hon. Steve and Hon. Seth, I have noticed you.

Leader of Minority (Hon. Oiko): Mr. Speaker, with due respect; if the amendment is approved in this House, the House is going to look petty. We cannot monitor the daily expenditure of that institution. The Assembly cannot look into the daily expenditure of an institution.

The Executive member will be there as a board member. The Assembly will appropriate the budget at the appropriate time. After that, when we want to raise issues on the budget, we shall wait for the Audited Reports, interrogate and make our decision. However, the issue of us being part and parcel, when they are spending the money, fellow members, that will not work.

If you check the Standing Orders, our committees are not supposed to look at the day to day running of the institution. I therefore ask the House to reject that amendment, thank you.

(Applause)

The Speaker (Hon. Oraro): Yes, the Leader of Majority. You know, according to the Standing Order, I have to give you chance even though I had noticed other Hon. Members. I am seeing they are down so you can proceed.

The Leader of Majority (Hon. Onyango): Mr. Speaker, I want to agree with the sentiment of the Leader of Minority by opposing this amendment. It means that we shall be micro-managing the institution. I believe that, we have so many ways in which we can oversight this corporation. In any case as the senior member has said, if you look at clause 24 and 25, where the capital is going to be raised and how the capital is going to be invested, there is already the approval of the Assembly. So, if we go to into this other amendment, I believe that the Assembly will be so petty, so, I oppose.

The Speaker (Hon. Oraro): Hon. Steve.

Hon. Owiti: Thank you Mr. Speaker, I also want to oppose this amendment. Even its proposer is also not so sure whether that amendment is supposed to be clause 19 (4) or clause 19 (3). When you go to the sub-clause (4) where he is proposing the amendment, it reads; *‘No expenditure must be incurred for the purposes of the Corporation except with annual estimates approved under sub section (3), or in pursuance of an authorization of the Board given prior written approval of the County Executive Committee Member’*. Which is correct and there is no way the Assembly can come in to that because this is now the day to day running of the Corporation.

Mr. Speaker, as an Assembly, we would have approved the budget, the Board would also have approved the budget. If there is any allocation from the County Treasury, we shall have approved it at the budget time. I also believe that when we come to this proposed amendment of clause 19 (4), it is not in consistence with other sections of this Law.

Maybe, if he wanted the Annual Estimates which is clause 19 (3), that still remains the duty of the Board and not of the Assembly. Just like I had explained that there are Laws governing corporations and this corporation shall not be governed in isolation from other existing corporations. Therefore, I urge this House to reject that proposed amendment and leave this clause the way it is Mr. Speaker sir.

The Speaker (Hon. Oraro): Hon. Agolla.

Hon. Agolla: Thank you. Mr. Speaker I also want to add my voice and urge this House to reject the proposal by Hon. Philemon to amend this clause. This is not the first corporation we are having in this County.

We have Kisumu Water and Sanitation Company (KIWASCO) which we know how it is being run. So, in this manner that the Hon. Member is proposing, we will deny the management of this corporation to operate.

Mr. Speaker, the sub-clauses 4 and 3 are very clear that once we have appropriated and approved the budget, once this corporation has been created and adopted by this Assembly. It will be attached to a certain department which I believe is the Finance Department. So, the CEC Member will manage it like the way the Department of Water, Environment and Natural Resources is responsible for KIWASCO. So by so including it here, we will be micro-managing this corporation. Once again I beg to request members to reject this amendment.

The Speaker (Hon. Oraro): Hon. Okumu.

Hon. Okumu: Mr. Speaker, I also rise to reject the proposed amendment by Hon. Philemon Juma Ojuok, MCA for Central Nyakach. I have never seen such pettiness since we came to this Assembly. It depicts...

Hon. Owiti: On a point of information Mr. Speaker sir.

The Speaker (Hon. Oraro): Whom do you want to inform?

Hon. Owiti: Mr. Speaker, I want to inform this House.

The Speaker (Hon. Oraro): Please proceed.

Hon. Steve Owiti: Mr. Speaker, I do not believe that it is in order when we are contribution to a motion or to a matter on the floor, we can disregard the contribution of other and term them as petty. Is it parliamentary? Let us accept other Members views and please, let us be tolerant.

The Speaker (Hon. Oraro): Hon. Seth, withdraw that word and use parliamentary language.

Hon. Okumu: Thank you Mr. Speaker sir. I withdraw and apologize. However, I do not know why an Honourable Member can focus on such a small thing. If the corporation wants to buy a pen, then they should come and ask him. It is written; maybe the English is too complicated, but it is so clear. That the expenditure can only be done in accordance with the Annual Estimate and if they want to do anything outside that, then they need approval by the CEC. Why should they come back to the Assembly here when they have a budget that was running and they want to do something outside the Annual Estimates or outside of what the corporation needs? Mr. Speaker, even though you are denying, but I believe that approving such amendment will show how this County Assembly does not focus on the major things that are affecting us. However, being so, for a lack of a better word, I rest my case.

The Speaker (Hon. Oraro): Hon. Obonyo.

Hon. Obonyo: Mr. Speaker, may I call the mover to reply

The Speaker (Hon. Oraro): Hon. Philemon.

Hon. Philemon: Hon. Speaker, I really appreciate the contribution of the members. Personally when I am doing something that I am passionate about, it is not a matter of how many people are in agreement but, my conviction about it.

The Hon. Speaker, my amendment is coming due to a corporation that can invest and can also be given money to invest from our budget in terms of appropriation. That can only give us annual report after their expenditure. However, when they are planning their expenditure in terms of budget, they are not giving us anything to see those particular budgets.

There is an argument that has been advanced especially on the issue of the board. Mr. Speaker, you are aware that the City has a Board but their Estimates come to this House for approvals. We look at those budgets and make corrections. We have a board in terms of Public Service Board yet again we still look at it. My argument is about their yearly budget needs to come to this Assembly for approval so that we avoid this kind of thing.

There is also another argument that has been advanced by some of the members about top Parastatals such as the Kenya Power and Lighting Company (KPLC). We are not going to do the same mistake because the National Government is doing it. That explains why Kenya Airways (KQ) which is making Kshs 36 billion in revenues due to the investment they are doing that are never checked by the National Assembly. It is the same place that the KPLC is falling without competing anybody. Due to their yearly wrong doings, that at the end of it, it is just reported that they made a loss. We could have known that they were going to make the loss, if they could have given us their Annual Budgets to us, we check and make corrections. That is my argument.

Nevertheless, I do agree with the members, if they do not feel that it is something that they can buy, this is a House of debate and democracy. The majority has their way and I have had my say, thank you.

The Speaker (Hon. Oraro): Hon. Members, Hon. Philemon had proposed an amendment to section 19 (4) that the words ‘and Assembly’ be added after the Executive and I want to put a question for the adoption of the same.

(Question put and negatived)

The Speaker (Hon. Oraro): The amendment has been rejected.

The Speaker (Hon. Oraro): Yes Leader of Majority.

The Leader of Majority (Hon. Onyango): Mr. Speaker under clause 6; Composition of the Board, I would wish to add clause (g) to read; Membership of the Board must not be more than 2/3 of the same gender. I ask Hon. Okumu to second. Thank you.

The Speaker (Hon. Oraro): Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker. So that we are in tandem with the Constitution we feel that the Board needs 2/3 gender rule and not to have no doubt about it, we want to include that in the Bill as proposed by Hon. Leader of Majority. I second.

The Speaker (Hon. Oraro): Hon. Members the Leader of Majority has proposed an amendment to clause 6 of the Bill that is under Composition of the Board. He is proposing that we add sub clause (g) that is after the words ‘to the Board’ to read; in appointment of a Member of the Board, not more than 2/3 should be of the same gender which has been seconded by Hon. Okumu and I want to propose a question that it is open for debate.

The Speaker (Hon. Oraro): Hon. Steve Owiti.

Hon. Steve Owiti: Thank you Mr. Speaker, I rise to object this proposal. It is a Constitutional requirement in this Country that we must observe the 2/3 gender rule and when we are making this law, let us not make the Bill so wordy just for the sake of it. At any given point nobody will be

allowed to constitute a Board without observing that rule. I don't believe that you will use this and exclude the Constitution of Kenya 2010 or other relevant laws. So that is already captured in the Constitution of Kenya 2010 which is the supreme law in this Country.

The Speaker (Hon. Oraro): Hon. Pete.

The Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. Let us not assume that the 2/3 gender rule is taken care of. There are instances where people think of the 2/3 gender rule when they are making the decision and then they ask how many women are there. Let us just be specific because if we assume this is a political appointment. When the politicians will take their people then we can look at the Act and we say that it is silent on the 2/3 gender rule. What will we say?

The Speaker (Hon. Oraro): Hon. Khan.

Hon. Khan: Thank you Mr. Speaker. I rise to object the same. As Hon. Pete had put it, it is this House that will approve the people that will be brought here and if they will see the criteria that is enshrined in the Constitution of Kenya is not adhered to then, they will reject appointment of the Board.

Secondly, if we want to bring in other issue then we would also want the Minority and People Living With Disabilities (PWDs) to be represented. This is going to give us nightmares for no reasons and therefore it is upon the House.

The Speaker (Hon. Oraro): Hon. Ogutu.

Hon. Ogutu: Thank you Mr. Speaker. I rise to object that particular amendment. I don't expect such an amendment to come from the Leader of Majority. First of all the owner of this particular Bill is the Leader of Majority and he is the one who brought this Bill to this House.

The Speaker (Hon. Oraro): Hon. Ogutu, I believe it is Hon. Okiri who brought this Bill here.

Hon. Ogutu: Mr. Speaker the conveyer belt of this Assembly is the Leader of Majority.

The Speaker (Hon. Oraro): Hon. Ogutu I want to rule you out of order. The owner of the Bill is Hon. Okiri.

Hon. Ogutu: Thank you Mr. Speaker. I oblige.

The Speaker (Hon. Oraro): What is it Hon. Okumu?

Hon. Seth Okumu: Is it right for Hon. Ogutu to use the microphone and not put on his mask properly and we know and it was mentioned in this House...

Hon. Ogutu: Mr. Speaker I believe that Hon Okumu has something personal against me and if you can give me one second to at least show him how things are being done then I believe that all will be well.

(Loud laughter)

The Speaker (Hon. Oraro): Hon. Ogutu just contribute on the motion.

Hon. Ogutu: Thank you Mr. Speaker. I believe that the 2/3 gender rule is anchored in the Constitution of Kenya 2010. If there is anything which Hon. Okumu called pettiness then I believe it could be this one because anything which is anchored in the Constitution of Kenya 2010 should be balanced with the one we are making at the Assembly level and at the National level. Mr. Speaker I believe that anytime we are doing appointment then we are referring to the mother law which is the Constitution of Kenya 2010. Let us not saturate this particular Bill by inserting whatever we want. Thank you.

The Speaker (Hon. Oraro): Hon. Philemon.

Hon. Philemon: Thank you Hon. Speaker. I want to reject the proposal raised by the Leader of Majority and I wish that the Minority Leader and the Majority Leader would have just assessed their argument the same way they assessed... if there is anything to do with pettiness then it is this one. This issue of 2/3 gender rule is anchored in the law, we have said that the Board will be approved here. We cannot say that they will not be able to see such a glaring fact as a requirement of the Constitution of Kenya 2010. Unless the Leader of Majority is underrating this House. I believe that it is something that we should not give attention to.

The Speaker (Hon. Oraro): Hon. Obura.

Hon. Obura: Thank you Mr. Speaker I wish to call the mover to reply.

The Speaker (Hon. Oraro): Yes Leader of Majority.

The Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. You know sometimes we lower the level of debate so much. So long as the law is not ultra vires to the Constitution of Kenya then, there is no offence in inserting that amendment. In any case if you look at the Village Council Act which was passed in this House, it mentioned that the Village Council Members must observe the 2/3 gender rule. If you look at the County Government Act 2012 the Appointment of County Executive Members 35 (2) (c) it states that; in making these appointments the 2/3 gender rule must be observed. That is taken from the Constitution of Kenya 2010 then it was brought to the County Government Act 2012. What is the offense? For avoidance of doubt we must put it so that there is clarity. Thank you.

The Speaker (Hon. Oraro): Hon. Members. We are in section 6. Now that the Leader of Majority had proposed an amendment on section 6 that after (f) we have (g) to read; in appointment of

Members of the Board not more than 2/3 should be of the same gender which was seconded by Hon. Okumu and has been debated. I therefore want to put a question on the adoption of the same.

(Question put and agreed to)

The Speaker (Hon. Oraro): Sub clause (g) shall read; appointment of Members of the Board not more than 2/3 should be of the same gender is now part of the Bill.

Hon. Members, I can see that there is no further contribution and as per our Standing Orders I want to remind Members that this Bill was brought to the House after public scrutiny. It was taken for publication, ultimately it was subjected to public participation after 1st reading. The Bill was later subjected to 2nd reading in the morning session in the Committee of the Whole House where different amendments were made. Consequently, it went through the 3rd reading where further amendments have been made. It is therefore time that I put a question on the adoption of the Kisumu County Investment and Development Corporation Bill, 2021 with the amendments therein.

(Question put and agreed to)

The Speaker (Hon. Oraro): Hon. Members. The Kisumu County Investment and Development Corporation Bill, 2021 with the amendments therein have been adopted today 21st April 2021 at 16:07 hours and I direct that Hansard report be prepared, the amendments done and the vellum be prepared and the same be sent to the Governor for assent.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business the House stands adjourned to tomorrow 22nd April 2021 at 2.30 p.m.

(House rose at 16:11 p.m.)

Addendum

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