

# MURANG'A COUNTY ASSEMBLY

## THE HANSARD

Wednesday, 2<sup>nd</sup> September, 2015

(Special sitting)

The House met at 10:09 a.m.

*(The Speaker Hon. Nduati Kariuki in the Chair)*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

**The Speaker:** Hon. members, I would like you to remain behind for a short *kamukunji* meeting immediately after this sitting, thank you.

### NOTICES OF MOTION

#### REMOVAL OF HON. GEORGE KAMAU FROM THE OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE, IT AND PLANNING

**Hon. Duncan Njuguna:** Thank you Mr. Speaker, I am the Member of County Assembly for Gitugi ward and I am also a Member of the Budget and Appropriations committee. I beg to give notice of the following motion;-

Aware, that Hon. George Kamau was appointed by the Governor as the County Executive Member for Finance, IT and Planning in June 2013, after the approval of the County Assembly on 4<sup>th</sup> June, 2013, further aware that he has discharged his functions to date, cognizant of the fact that he has always acted in gross incompetence, grossly violated the Constitution and other laws; this House urges the County Governor of Murang'a to dismiss/remove Hon. George Kamau from the office of the County Executive Committee Member (CEC) for Finance, IT and Planning pursuant to Section 40 of the County Governments Act no. 17 of 2012 on the following grounds:

1. Preparation and processing of Budget Estimates for the Financial Years (FYs) 2013/14, 2014/15 and 2015/16;
  - i. The County Executive Committee Member for Finance, IT and Planning did not comply with Section 129 of the Public Finance Management Act (PFM) no 18 of 2012 in the following ways:-
    - a. The budget submitted by the County Executive Committee Member for Finance, IT and Planning did not comply with section 129(1) (a) and 2 (a) to the extent that it included the Budget Estimates of the County Assembly. The Budget Estimates of the County Assembly are submitted to the County Assembly by the Clerk pursuant section 129(3) of the Public Finance Management Act.
    - b. The County Executive Committee Member for Finance, IT and Planning did not comply with section 129(1) (a) to the extent that he failed to submit the draft Bills required to implement the County Government budget.
    - c. The County Executive Committee Member for Finance, IT and Planning failed to comply with Section 129(2) (b) that requires the Budget Estimates to be in accordance with the resolutions adopted by the County Assembly on the County Fiscal Strategy Paper (CFSP).
    - d. The County Executive Committee Member for Finance, IT and Planning did not comply with Section 129 (4) to the extent that he did not prepare and submit to the County Assembly comments on the Budget Estimates presented by the County Assembly Clerk.
  - ii. The County Executive Committee Member for Finance, IT and Planning did not comply with Section 130 of the Public Finance Management Act in the following ways:

- a. The County Executive Committee Member for Finance, IT and Planning failed to submit a summary of budget policies including revenue, expenditure, debt and deficit financing contrary to section 130(1) (a) (i).
  - b. The County Executive Committee Member for Finance, IT and Planning failed to submit to the County Assembly an explanation of how the budget relates to the fiscal responsibility principles and the finance objectives contrary to Section 130 (1) (a) (ii).
  - c. The County Executive Committee Member for Finance, IT and Planning failed to submit to the Assembly a memorandum explaining how the resolutions adopted by the County Assembly on the Budget Estimates have been taken into account contrary to Section 130 (1) (a) (iii).
  - d. Contrary to Section 130 (1) (b) (i) (v) and (vi), the County Executive Committee Member for Finance, IT and Planning failed to submit to the Assembly Budget Estimates that include:
    - a. A list of County Government entities that are to receive funds appropriated from the budget of the County Government.
    - b. All estimated expenditure, by Vote and by programme clearly identifying both recurrent and development expenditures. The submitted budget did not provide the Recurrent Expenditures for all the departments and entities.
    - c. Information regarding loans made to the County Government, including an estimate of principal, interest and other charges to be paid in respect of those loans. The County Government has acquired two loans from the Kenya Commercial Bank, whose details were not provided to the Assembly.
    - d. The County Executive Committee Member for Finance, IT and Planning failed to submit to the Assembly information relating to any payments and liabilities to be made or incurred by the County Government for which an appropriation is not included in an Appropriation Act contrary to Section 130 (1) (c).
    - e. The County Executive Committee Member for Finance, IT and Planning failed to submit to the Assembly a statement specifying the measures taken by the County Government to implement any recommendations made by the County Assembly with respect to the budget for the FY 2014/2015.
2. Gross incompetence. The County Executive Committee Member for Finance, IT and Planning exhibited gross incompetence in the discharge of his functions in the following ways:
- a. In February 2014 and 2015, he submitted the County Fiscal Strategy Papers that were substandard due to the following facts:
    - i. The County Fiscal Strategy Papers did not contain detailed analysis of sector ceilings, revenue and expenditure projections per program;
    - ii. The County Fiscal Strategy Papers were a copy-paste of the Budget Policy Statement for the National Government and focused on the National Government functions such as security, provincial administration, among others, which the Committee could not relate to the County future development agenda.
3. Inability to advise the Governor; he failed to advise the Governor on the manner in which a memorandum is written and submitted as is the case for the practices adopted by the National Government.
4. Non-disclosure of debts in the Budget Estimates for FY 2015/16 and in the County Debt Management Strategy Paper; the County Executive Committee Member for Finance, IT

- and Planning failed to disclose all the debts that the County owes the suppliers to the tune of Kshs. 1.86 Billion.
5. Annual Development Plan for the FY 2015/2016; the County Executive Committee Member for Finance, IT and Planning submitted an Annual Development Plan that was sub-standard and a copy paste of the plan for the FY 2014/15.
  6. Failure to submit policy papers to the Assembly for approval; the County Executive Committee Member for Finance, IT and Planning failed to submit to the County Assembly policy papers pertaining to key programs. For example the milk processing plant, youth empowerment, among others.
  7. Committing to projects that were not budgeted for in the FY 2014/15; the report on total debts that the County owes creditors, the County committed funds for such programs like construction of a dormitory at Kahuhia Girls that was not factored in the Budget Estimates for the FY 2014/15.
  8. Use of unprofessional insulting language in official communication; the County Executive Committee Member for Finance, IT and Planning vide a letter ref no. MCG/FIN & PLN/63/27 dated 30<sup>th</sup> June 2015, responded to a letter from the Clerk to the Assembly using unprofessional language that is against the code of ethics. This exhibited disrespect to the County Assembly.
  9. Inability to respond to issues as enumerated by the Controller of Budget; the County Executive Committee Member for Finance, IT and Planning has failed respond to the issues as enumerated by the Office of the Controller of Budget in a letter dated August 6, 2015, for example allocations made to the milk processing plant and the mango processing factory yet details of activities to be undertaken have not been provided.
  10. Failure to itemise the Budget Estimates for the FY 2015/2016; the County Executive Committee Member for Finance, IT and Planning failed to submit a program-based Budgets for the FY 2014/15 and FY 2015/16 as required under Section 12 of the Public Finance Management Act, 2012, Second Schedule.
  11. Misappropriation of public funds; the County Executive Committee Member for Finance, IT and Planning requisitioned Kshs. 29, 779,000 for the County Assembly but failed to remit the funds to the same Assembly in the FY 2014/15.
  12. Sabotaging the operations of the County Assembly by refusing to remit Kshs. 71,000,000 that had been requisitioned and disbursed to the County Treasury; the County Executive Committee Member for Finance, IT and Planning requisitioned funds for the County Assembly to the tune of Kshs. 71,000,000 for the months of June and July 2015 but is yet to remit the same to the Assembly thereby crippling the operations of the Assembly.
  13. Lack of professional thinking in budgeting; the County Executive Committee Member for Finance, IT and Planning purported to collect Kshs. 500,000,000 from power generation before carrying out feasibility study for the same program. This would result into financial deficit in the budget.
  14. Mr. Speaker, Sir, running commercial entities without properly registered institutions and policies; the County Executive Committee Member for Member for Finance, IT and Planning has failed to generate policies of the county engaging in commercial entities such as Murang'a County Creameries, Mariira Farm, among others.
  15. Refusal to respond to money Motions; the County Executive Committee Member for Finance, IT and Planning has, on various occasions, failed to respond to requests from the Budget and Appropriations Committee on the viability of money Motions, which clearly shows his inability to analyze the Motions and give his comments economically as required under Section 21(3) of the County Governments Act No 17 of 2012. This is

evident through Ref No. MCA/C/12/16 dated October 6, 2014 where the Committee requested responses on the following notices of motions:-

- i. Notice of Motion on feeder roads for access to Tea Factories by Hon. Charles Kirigwi, MCA Kinyona Ward.
  - ii. Notice of Motion on the establishment of a training program for persons with disabilities by Hon. Esther Ngugi, nominated MCA.
  - iii. Notice of Motion on construction of ramps and lifts in all public offices for persons with disabilities by Hon. Esther Ngugi, nominated MCA.
  - iv. Notice of Motion on offsetting of debts owed to external parties by coffee societies in Murang'a County by Hon. Bernard Kariuki, MCA Gaichanjiru Ward.
  - v. Notice of Motion on development of reward schemes for farmers above the age of 65 years by Hon. Charity Wangui Rugu, nominated MCA.
  - vi. The County Executive Committee Member for Finance, IT and Planning, also on invitation by the Committee vides a letter Ref. No. MCA/C/5/57 dated October 22, 2014 where in a meeting held on Thursday, November 13, 2014 at 9.30 a.m. failed to respond to those notices of Motions citing lack of a robust Budget Office with competent analysts and he requested for more time to do so. Unfortunately, no response in that regard has been received.
  - vii. Additionally, in a letter dated June 9, 2015, Ref no. MCA/ C/12/49, the Budget and Appropriations Committee requested for the comments of the County Executive Committee Member for Finance, IT and Planning on a notice of Motion by Hon. Caroline Njoroge regarding the provision of free and compulsory early childhood education where the said Executive Member was expected to respond on, or, before Monday, June 15, 2015. Nevertheless, the County Executive Committee Member for Finance, IT and Planning is yet to respond.
16. Violation of Section 25 (2) of the County Governments Act No. 17 of 2012; the County Executive Committee Member for Finance, IT and Planning has been adamant to implement an Act of the Assembly. This is evident through a letter dated July 28, 2015, ref no. MCG/FIN & PLN/63/36 where he clearly indicated his unwillingness to implement the Murang'a County Appropriation Act No. 3 of 2015 that ought to have come into force on July 23<sup>rd</sup> 2015 pursuant to Section 25 (2) of the County Governments Act No. 17 of 2012. The County Executive Committee Member for Finance, IT and Planning has disregarded the force of law and if such a move is tolerated, it is likely to create a breeding ground for impunity and set a bad precedence of absolute disregard of the law.
17. Acting in ultra-vires/abuse of office; Mr. Speaker, Sir, Section 24 (1), (2) of the County Governments Act No. 17 of 2012 provides as follows:-
- (1) "The Speaker shall, within 14 days, forward a Bill passed by the County Assembly to the Governor.
  - (2) The Governor shall within 14 days after receipt of a Bill:-
    - a) Assent to the Bill; or
    - b) Refer the Bill back to the County Assembly with a memorandum outlining reasons for the referral."

The County Executive Committee Member for Finance, IT and Planning violated the above mentioned Section of the County Governments Act No. 17 of 2012, and acted in ultra vires by purporting to be the Governor of Murang'a by requiring the County Assembly to consider his proposed amendments to the Murang'a County Appropriations Bill No. 5, 2015 and revert it for consideration vide a letter dated 30<sup>th</sup> June 2015- Ref. No. MCG/FIN and PLN/63/27. This was in contravention of Section 24 of the County

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Governments Act No. 17 of 2012 that only entitles the Governor to refer a Bill back to the Assembly.  
Thank you Hon. Speaker.

*(Paper Laid)*

**The Speaker:** Next.

**ADJOURNMENT**

**The Speaker:** That being the case Hon. members, the House is adjourned until Monday next week. Meanwhile, we shall have an informal meeting immediately after this sitting, thank you.

*The House rose at 10:29 a.m.*