

**REPUBLIC OF KENYA**  
**COUNTY ASSEMBLY OF KILIFI**

**THE HANSARD**

**Wednesday, 6<sup>th</sup> July, 2016**

*The House met at the County Assembly Chamber, Malindi Town, at 2.30 p.m.*

*[The Speaker (Hon. Mwambire) in the Chair]*

**PRAYERS**

**COMMUNICATION FROM THE CHAIR**

**VISITING STUDENTS FROM OXFORD HIGH SCHOOL IN MALINDI**

**The Deputy Speaker** (Hon. Mwambire): Hon. Member, we are privileged to have students from Oxford High School in Malindi. I am going to read out the names of the students and their teachers, and they will respond as required. If I read out your name kindly stand up and bow so that we know you are present.

1. Zalkat Yunus
2. Sanita Kazungu
3. Regina Munga
4. Pinna Kahindi
5. Julian Wughanda
6. Gift Charo, I'm sorry Gift is not here.
7. Agnes Christian
8. Peris Mwangandi
9. Florence Mahenzo
10. Mary Samuel
11. Emily Koi
12. Bahati Kazungu
13. Elvina Nuru
14. Esther Jewa
15. Tatu Kahindi
16. Juliana Furaha
17. Teclar Karisa
18. Peris Sidi
19. Loice Wanje
20. Farida David
21. Eunice Kahindi
22. Monica Agasa

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23. Faith Kagendo
24. Caroline Joseph
25. Sumeiya Said
26. Aisha Kanze
27. Margaret Muganga
28. Jesicca Mwadzidze
29. Sharon Robert
30. Lilian Safari
31. Mwatari Mzungu
32. Kimani Joseph
33. Macmillan Dambala
34. Mdavida Francis
35. Gona Benson
36. Menza Martin
37. Sifa Safari
38. Emmanuel Steven

The students are accompanied by the following teachers;

1. Mr. Eric Wanyama
2. Mr. James Kahindi
3. Ms. Lydia Nanjala

Thank you for coming. Let me give an opportunity to hon. Stanley Kenga to welcome the students and teachers.

**Hon. Kenga:** Thank you very much Mr. Speaker for giving me this opportunity. I want to take this opportunity to recognize and appreciate the presence of the visitors who have found it fit to come to this Assembly as a way of trying to learn and find out how we transact our business in this County Assembly of Kilifi.

It is an opportunity for them to be able to get to know more about the business of the Assembly. I know that some of them would aspire to be politicians in the near future once they are through with their education and therefore this gives them an early opportunity in making sure that they are conversant with the operations of the Assembly.

Again, they are also in a position to know how the Assemblies in the entire Republic of Kenya run and also to know their Members because we are the representatives of the people of Kilifi and we represent their interests. This is also an opportunity for them to be able to see how their interests are being taken care of by the elected leaders who represent them. Thank you very much and I wish you a happy time. Once again, I say thank you and welcome.

**Hon. Mwathethe:** Thank you very much Mr. Speaker for giving me this chance to welcome our students. These students come from my ward so by virtue of that I am very happy that their leadership allowed them to come and pay us a visit so that as my fellow Member has said, they can get a chance to learn. This is one of the fruits of devolution because earlier it would have demanded they travel all the way to Nairobi to see the proceedings but devolution has brought this thing on the finger tips of those who maybe want to 'touch.' Therefore Oxford High School students together with your teachers, you are most welcome and I want to congratulate you for having chosen to come and pay us a visit.

This is how business is conducted while we are here; it is not as easy as maybe in your classrooms but we also have rules and regulations to follow. The guys you see in uniform there can throw us outside anytime if it so demands.

So while we are here we are all subjected to laws and rules to follow. You have done me a great honour by coming and when you are out you can invite anyone especially from my ward, in brackets, to come and enjoy because really you did not have to spend anything. I believe that they did not have to hire a bus or a *matatu* to come here because it is right behind here. Thank you Mr. Speaker for giving me a chance to contribute and you are most welcome.

**The Deputy Speaker** (Hon. Mwambire): Thank you very much. I believe the students and teachers will get exactly what they wish to get as they appreciate devolution. Clerk, next order please.

## NOTICE OF MOTION

### POOR SOLID WASTE MANAGEMENT IN TRADING CENTRES

**The Leader of Minority** (Hon. Pascal): Thank you Mr. Speaker for giving me this opportunity to lay before this hon. House a Notice of Motion directed to the Department of Water, Environment, Minerals and Natural Resources. The notice is on poor waste management in trading centres:

AWARE THAT, devolution brought about the emergence of many townships and trading centres in the county.

FURTHER AWARE THAT, these townships and trading centres have attracted many people to live and do businesses.

NOTING WITH CONCERN THAT, these centres have been neglected in terms of solid waste management despite being good sources of revenue for the county through the various payments of business permits.

AWARE THAT, poor solid waste management compromises the health of the inhabitants and the ecosystem at large.

This hon. House urges the County Executive Committee Member for Water, Environment, Minerals and Natural Resources to come up with a policy that will see all the potential trading centres manned by local residents or groups who will manage the general sanitation or solid waste management of these areas, thus addressing the unemployment menace within the county. Thank you.

## STATEMENT

### ORDER OF BUSINESS FOR THE WEEK STARTING MONDAY, 11<sup>th</sup> JULY, 2016 TO FRIDAY, 15<sup>th</sup> JULY, 2016

**The Leader of Majority** (Hon. Mwingo): Thank you Mr. Speaker. May I take this opportunity to read the Order of Business for the week commencing Monday, July 11<sup>th</sup> 2016. On Monday, 11<sup>th</sup> July, 2016 at 2.30 p.m.; we have the address by the Senator.

On Tuesday at 9.00 a.m. we have a Paper by the Leader of Majority. We then have a Statement being sought by hon. Emmanuel Chai to the Department of Transport through the Chairperson, Sectoral Committee on Transport and Public Works.

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We have another Statement being sought by hon. Albert Kiraga Hare to the Department of ICT, Culture and Social Services.

We have another Statement sought by hon. Albert Kiraga Hare to the Department of Transport through the Chairperson, Sectoral Committee on Transport and Public Works.

We have another Statement sought by hon. Albert Kiraga Hare to the Department of Education, Youth Affairs and Sports.

We have a Notice of Motion by the Leader of Majority.

We have a Notice of Motion by hon. Teddy Mwambire to the Department of Education and County Secretary.

We have a Motion for adoption of the Report of the Committee on Budget and Appropriations on the Kilifi County Annual Development Plan, 2015 tabled on 3<sup>rd</sup> May, 2016.

We have the Committee of the Whole House deliberating on the Kilifi County Maternal, Newborn and Child Health Bill, 2016.

We also have another Committee of the Whole House deliberating on the Kilifi County Health Facilities Improvement Fund Bill, 2016.

On Tuesday 2.30 p.m. we have Statements and Bills and Motion by the Leader of Majority.

Wednesday, 13<sup>th</sup> July, 2016 at 2.30 p.m. we have the following Papers;

- a) Tabling of complaints letter on the ongoing rehabilitation of Benesi water-pan in Ruruma Ward by hon. Naftali Kombo MCA (Member of Country Assembly), Ruruma Ward.
- b) A Motion by hon. Pascal Thuva.
- c) Committee of the Whole House deliberating on the Kilifi County Vetting and Appointment of Public Officers (County Assembly Approval) Bill, 2016 and
- d) Committee of the Whole House deliberating on the Kilifi County Petition to County Assembly (Procedure) Bill, 2016. Thank you Mr. Speaker.

**The Deputy Speaker** (Hon. Mwambire): Thank you. Next Order.

## MOTION

### ADOPTION OF THE REPORT ON THE FINANCIAL OPERATIONS OF KILIFI COUNTY EXECUTIVE FOR THE FY2013/14 AND FINANCIAL STATEMENTS FOR THE COUNTY GOVERNMENT OF KILIFI FOR THE YEAR THAT ENDED JUNE, 2014

**The Deputy Speaker** (Hon. Mwambire): Yes, the Chairperson Public Investment and Accounts Committee.

**Hon. Kaingu:** Thank you Mr. Speaker. This afternoon, I have the privilege to table the Motion for the adoption of the Report of the Committee on County Public Investment and Accounts on financial operations of the Kilifi County Executive for the financial year 2013/2014 and financial statements for the County Government of Kilifi for the year ended June, 2014.

THAT, this hon. Assembly adopts the Report of the Committee on County Public Investment and Accounts on financial operations of Kilifi County Executive for the financial year 2013/2014 and financial statements for the County Government of Kilifi for the year ended June, 2014 laid on the Table of this hon. House on Monday, 20<sup>th</sup> June, 2016. I call upon hon. Nzaro to second this Motion.

*(Hon. Nzaro stood at his place to second)*

*(Question proposed)*

**Hon. Nzaro:** Thank you Mr. Speaker. I rise to second the adoption of this Report. As a Member of this Committee, we held various sittings to look at this Report. Chapter 2 of the Constitution Article 10 talks about national values and principles of governance and these principles demand that there should be accountability, transparency and good governance in the way financial transactions are done in this county.

While we were looking at these Reports, there were some issues that we found which demand action to be taken. One, some of these accounting officers as is highlighted in the Report, did not wish to give evidence or explanation on some of the items which were given in the audit Report but if you look at what the Constitution Article 35 Chapter 4 in the Bill of Rights says “the access to information is guaranteed in the Constitution”. If you look at Article 195 of the same Constitution, the County Assembly has the powers to summon any individual to give information or anything pertaining to a subject on any Report.

When these officers failed to give us these Reports, it is assumed that some fishy deals have been conducted and we want to conceal some of this evidence which we want to have so that this county can be run in a better way. One of the fundamental objectives of devolution, if you look at Chapter 11 Article 174 of the Constitution is to promote social and economic activities and economic development of our county. When money is lost because somebody does not know how to account or does not want to account for this money, then the essence of economic development even to those areas which have been underdeveloped for the whole time since independence is defeated.

Mr. Speaker, most of these mistakes which were made by our accounting officers dealt on the procurement of goods and services under Article 227 of the Constitution. The system which has to be used in procurement should be fair, equitable, transparent, competitive and cost effective. At times you will find some of these principles were not followed when these accounting officers were handling the accounts of this county.

Mr. Speaker, that is why in the audit report you find that the procurement of goods and services was not done in the manner which is envisioned in the Public Finance Management Act. Article 226 of the Constitution states that, the accounting officers have to be accountable to this County Assembly for financial management. If these things were not done, I think the best recommendation which we have done as a Committee is to propose the naming and shaming of these accounting officers who do not take audit work seriously. This will make these accounting officers at least do their work so that they act on these directives and also answer to the Auditor Generals’ report.

Mr. Speaker, devolution came so that we propel economic development of our society and it will be very sad when monies are channeled to the counties and then some individuals just take those monies and put them in their pockets instead of serving the citizens of this great county. It will be very good for this Assembly because this is the First Audit Report we are discussing.

I urge the hon. Members to pass this Report so that we instill some discipline in the way some of these accounting officers have been undertaking their mandate in exercising their duties. I would like to congratulate the officers who also made us work although sometimes we get a lot of challenges but the office of the Clerk and the office of the Speaker gave us the support which

we required for the Report to be completed. So, I urge the Members to fully support this Report so that money for development purposes is not lost in our great county. Thank you Mr. Speaker. I rise to support.

**Hon. (Dr.) Chitibwi:** Thank you very much hon. Speaker for giving me this opportunity. I stand to support the adoption of this Report. This county has high hopes; devolution has brought hopes to everybody in this county and in Kenya. It will not be proper if this Assembly allows the hopes of our people to die.

This House allocates a lot of money for development and recurrent expenses. The questions that have been raised by the National Audit office are the same questions that we are receiving from the people. The face of the Kilifi County Government is the Governor and the Members of this Assembly. The first person that the *wananchi* blame is the Governor but they do not see the Governor but they see Members of the County Assembly more frequently and the questions we receive are questions we cannot answer.

The blames that we receive are put on us as representatives but not as the people who are doing wrong. As we sit here doing our work as an Assembly, we came to do legislation and represent the people and this is one of the ways of representing the people. We are doing oversight and that Report is part of our job. We need to take it very seriously. I will feel ashamed of representing the people because of all manner of blame that is thrown on us when we are out there.

The only people who can rescue us are at the National Audit office and I want to congratulate the Chairperson and Members in that even after working under very difficult conditions, they came up with this Report. If Kilifi County is to go anywhere, if accountability is to be seen among our officers then it is through the adoption of this Report. If our oversight role is to be seen to be carried out, it is through the adoption of this Report.

Without going into details hon. Speaker, I urge my fellow Members to adopt this Report and whatever has been recommended; the office that is to take action after this Assembly should take that action. A country that has got people who have no hope is a very dangerous place to stay. This County Government is only three years old, but you will be surprised by what is coming out from the people; we are dealing with very angry people out there.

Maybe it is on us as a Government and I cannot shy away. I cannot say *sio mimi* (it is not me); I am part of the Government and they expect me to take action. Mr. Speaker Sir, the action that I take is to look into the National Audit Report and digest it as a Member of this Assembly. People have given me the mandate and trust to act on their behalf. Members of the Committee took up that trust and came up with this Report. I urge my fellow Members to adopt this Report. Thank you very much.

**Hon. Gambo:** Asante Bw. Spika kwa kunipa nafasi hii ili nichangie Ripoti hii. Kwanza nawapa pongezi wanakamati wakiongozwa na Mwenyekiti wao mheshimiwa wa Kaloleni. Kamati hii ilifanya kazi kubwa sana. Ilifika wakati Kamati hii ilipata vitisho kwa sababu ya Ripoti. Kwa kweli kama Kamati hii ingekuwa na uoga na kama hawakuaminika na wananchi, basi labda Ripoti hii haingetufikia. Vile Ripoti hii imefika, waheshimiwa kabla sijachangia zaidi kuhusu Ripoti hii tuiunge mkono ili ikafungue njia na kujulisha wananchi wetu kuhusu kinachoendelea ndani ya kaunti hii.

Mimi nikiwa mjumbe kabla haijakuja Serikali ya ugatuzi, nilikuwa ndani ya baraza letu la Kilifi na nakumbuka kwamba tulipotoka kwa baraza tuliliwacha bila madeni. Ndani ya Ripoti hii nakuta kuna mawakili wanadai kwa sababu waliwacha madeni ndani ya baraza. Naamini Ripoti hii tunapoipitisha tutaweza kujulisha wananchi na wahusika wa kuweza...

*(Hon. Nzaro stood on a Point of Information)*

**The Deputy Speaker** (Hon. Mwambire): Hon. Gambo, do you wish to be informed?

*(Hon. Gambo nodded his head in affirmation)*

**Hon. Nzaro:** The Member needs to be informed that the Report we are dealing with is the Report on the Kilifi County Executive for the year 2013/2014. From how he was explaining, it is as if he is dealing with the Report of the Local Defunct Authorities which is yet to be debated in this Assembly.

**Hon. Gambo:** Mheshimiwa, mimi nilikuwa nakuleta...ikiwa nilikuwa mmoja wa wajumbe waliokuwa katika baraza. Hawa ambao wanafanya kazi saa hii kwa kigezera tukiwaita *Executives* ni kwamba hata Ripoti hii inazungumzia yale ambayo ni ya ndani zaidi hata imejitokeza kwamba kuna madeni. Nataka kujulisha wananchi kwamba tulipotoka katika baraza, kulikuwa hakuna madeni na kama hawatajua basi tutapoteza rasilimali kubwa.

Ripoti hii inazungumzia mipangilio na matumzi ya pesa ambazo ndio misingi ya maendeleo ya serikali yetu ya kaunti. Nimesimama kuunga mkono Ripoti ili ifwate mkondo wake. Izidi kuendelea ili tuweze kugundua ambayo yangeweza kutusaidia katika kaunti yetu na matarajio ya wananchi yapate kuonekana. Tumechaguliwa hapa kwa sababu walituamini na tutachakura kigezera tukisema ni *oversight*; hii ni moja ya shughuli zetu. Tunaangalia na kuchunguza ili tufahamishe wananchi wapate kujua mambo yanayoendelea katika kaunti yetu. Naunga mkono kupitishwa kwa Ripoti hii.

**Hon. Mwayaa:** Asante sana mheshimiwa Spika kwa kunipa nafasi hii ili nami nichangie kwa kuunga mkono Ripoti hii nikiwa mmoja wa wanakamati ambao walijadili Ripoti hii kwa undani. Sisi tuko hapa kama wajumbe wa Jimbo letu la Kilifi kwa kuwakilisha wananchi na hatutasita kwamwe kuona kwamba kazi hiyo tunaifanya ili tukaite Jimbo letu la Kilifi mahali panapofaa. Kusema kweli, Jimbo letu la Kilifi kuna mambo mengi ambayo ni yafanyike.

Tulivyoingia katika mamlaka, tuliandika watu wengi ili tuhakikishe kila idara ina wafanyikazi wa kutosha. Hivyo basi, katika uwakilishi wetu, tunaona ya kwamba idara hizo wale waliopatiwa zile nyadhifa waweze kuzifanya kwa manufaa ya jimbo hili. Wamegeuka na kuona kwamba hawazifanyi vilivyo. Nasema hivyo kwa nini? Ukiangalia katika Ripoti, hakuna kitu kinaweza kuletwa katika jimbo hili ama idara fulani pasipo na makaratasi yafaayo. Kwa mfano, kama mtu ameleta chochote katika ofisi fulani ama wizara fulani, lazima kuwe na *invoice* ama *delivery* ili kuhakikisha kile ambacho kinaendelea pale kiko na uwazi.

Mheshimiwa Spika, utashangaa ama uniunge mkono kwa sababu ukiangalia katika Ripoti hii kile kinachoulizwa ni makaratasi hayakuoneka baada ya vitu fulani kuletwa katika ofisi fulani ama katika jimbo letu hili la Kilifi. Tunajiuliza maswali kama wawakilishi wa wananchi; ni namna gani vitu vinaweza kuletwa ambavyo vinaweza kusaidia katika jimbo letu, kwa mfano ambulensi zile ambazo zinabeba wagonjwa katika Jimbo letu la Kilifi? Ukifuatilia makaratasi, utakuta hayako sawa. Sasa hawa watu tuliowaajiri kazi tunajiuliza wako sawa na makaratasi yao ama walikuwa wanakuja ili wakahujumu kazi ambayo tunataka iwe nzuri?

Asante kwa Gavana wetu amejaribu kufanya kazi iwe nzuri, lakini hawa ambao wako hapa maofisini kuna wimbo wanacheza ambapo imefikia wakati mheshimiwa Spika, kila mmoja aweze kubeba msalaba wake mwenyewe. Kama wewe ni mfanyi hesabu uweke hesabu zako vizuri, kama umeshika wizara fulani kama mhusika wa wizara ile ukaweke mambo yako sawa

sawa. Hivyo basi naunga mkono Ripoti hii na kusema kwamba kila nyumba iweze kuwa sawa sawa na tuweze kuona tumefikia mahali pazuri na kupeleka jimbo letu pale mahali ambapo linastahili liende maana ni haki ya wananchi wa Kilifi waweze kufaidika; makaratasi yawekwe sawa sawa na pesa zote zionekane zimetumika sawa. Naunga mkono na naomba waheshimiwa wenzangu tukaunge mkono Ripoti hii ili kilichofichika kiweze kuonekana mahali peupe na tuweze kupeleka wananchi wetu na jimbo letu la kilifi mahali pazuri. Asante na naunga mkono.

**Hon. (Ms.) Zawadi:** Asante mheshimiwa Spika kwa kupata nafasi hii ili nami niweze kuongea mawili matatu. Kwanza, nashukuru na kupeana pongezi kwa mwenyekiti wa Kamati hii akiwa mheshimiwa Kaingu pamoja na Kamati yake yote. Nikikumbuka ni Bunge hili ambapo mheshimiwa Kaingu alileta Mswada wake ambao hata haikuwahi kujadiliwa mwenyewe tena akautoa. Nataka nimpongeze kwa sababu kujaribu kuleta hii Ripoti hapa ndani mpaka kukubalika mpaka saa hii isomwe lazima kuna changamoto nyingi ambazo amepitia.

Ninaamini pia haikuwa rahisi kupata makaratasi katika ofisi fulani. Kwa hivyo, ni kazi kubwa ambayo mmefanya na endapo tutaipitia Ripoti hii, tufanye kazi yetu vizuri kama waangalizi na tuhakikishe kweli haki inatendeka. Kama vile Yesu alivyosema siku moja kwamba, tutosheke na mishahara yetu, na kama tutaangalia kweli watu watosheke na mishahara yao na tuangalie cha mwananchi kimfikie mwenyewe na chetu tubaki nacho wenyewe ama wabaki nacho wenyewe wanaofanya kazi ya ofisi zile. Hivyo tutakuwa tumefanya jukumu letu la utekelezaji ama la uangalizi na uwakilishaji ambalo ni moja katika zile kazi zetu ambazo tunafanya.

Kwa hivyo, mimi nimesimama nikiunga mkono Ripoti hii. Tujadili na tuangalie kile ambacho kinapungua na kinaongezeka na tuone ni kipi na tuangalie ni vipi tutafanya kazi vizuri pamoja na maofisaa wetu. Asante.

**Hon. Kenga:** Thank you very much Mr. Speaker. Allow me to start by thanking the Chairperson who has been able to bring before this Assembly the Report that is before us. I support the adoption of this Report. This is one of those Reports with recommendations that once put in place the interventions that have been proposed or recommended by the Committee will enable us solve some of the challenges that we have experienced in our county as we implement and operate and carry on with the business of the county. There are various issues that have come to light regarding the Report that is before us and one of the issues that I want to put across to the hon. Members is the issue of unsupported expenditure that was seen to amount to Ksh 200 million.

Mr. Speaker, in the Budget that we approved just last week, Ksh 273 million was seen to be enough to tarmac most of the roads within Malindi town; Muyeye, Shela, and Barani. Therefore if a Government that is in place is not in a position to account for over Ksh 200 million, this is a lot of money. This is not the kind of information visitors we have at the gallery today would want to hear; that our county is doing business in such a manner. They are looking at us as leaders of a county that is able to prudently spend what is given to us in delivering quality and timely services to the people.

Yesterday I had an opportunity to attend a meeting that was called by the executive and one of the issues that we were discussing was the issue of hunger and famine that is now hitting a great part of Kilifi hard, especially in Magarani and Ganze sub-counties. Just on the Reports that we had Mr. Speaker, the county requires more than Ksh 200 million to be able to intervene on the issues of hunger and famine. Now, if we as a county are not able to explain the expenditure of Ksh 200 million, this is a great concern and interventions have to be put in place and those

Members who are involved must be held to account for this kind of thing so that we do not witness this taking place again but we put a stop to it.

Mr. Speaker, another item that was highlighted by the Committee as an observation was the issue of imprest given out that has not been recovered to the tune of over Ksh 22 million. Just the other day the hon. Member for Garashi (ward) was complaining that an irrigation project had been given Ksh. 14 million yet it was supposed to be given Ksh 20 million. If this money is available, it could be pumped towards the irrigation project so that the issue of food security in the county is taken care of, but here, the Committee was able to make this observation that imprest is given to the staff of the county and they are not able to account for it which is a grave concern.

Another major issue Mr. Speaker was the issue of revenue collection. That as a county, we had projected to collect Ksh735 million as revenue collection for that financial year but we were only able to collect Ksh 329 million. One of the challenges that have been highlighted was lack of automation in most of the revenue collection centres. I want to believe that if it is about automation, then the county has enough people or staff that are skilled who are experts in the issues of automation and we have resources that could be directed to that so that we are able to seal all the loopholes that exist and be in a position to enhance our revenue base so that as a county, we are able to reach our target.

Then, there is the issue of incompetence by the accounting officers in most of the Departments within the County of Kilifi. This is also a concern that was highlighted by the Committee. Again, looking at the findings and recommendations, I believe the Committee Members have put in place strong interventions. What needs to be done is to make sure that the recommendations of this Report are implemented. This is where we call upon the hon. Member, I know he is not present but I know that one of the Implementation Committee Members; hon. Elizabeth Muthoka, should be in a position to make sure that this Report is implemented fully so that we are able to stop all this defaces that we have been able to see from the Report that is given out.

Various issues have been given out in the Report and various solutions and recommendations have also been given therefore we have to move forward; we have to make sure that the issues that have been raised by the Vice Chairperson of the Committee in relation to accountability, prudent and responsible manners of using public finance and openness must be adhered to so that we are able to move forward. Thank you very much Mr. Speaker. I beg to support the adoption of the Report.

**The Leader of Minority** (Hon. Pascal): Thank you Mr. Speaker for this opportunity. Let me take this opportunity to congratulate the Chairperson and the entire Membership of this Committee. If you go deep into this Report, you will see where the mess has actually risen; from spending without the approval of the Assembly to monies being spent without any proper explanation. The measures that have actually been given out by this Committee will go a long way into saving the monies that we find have not been properly appropriated.

The members of this county have always wanted us as their elected Members to actually ensure that our oversight role is played properly so that we can curb any sort of vice that would actually not direct the resources to their proper use. As we stand, we cannot actually meet the expectations of the people because proper measures have not been put for us to actually have our resource envelop properly built.

If you go deep into this Report, the Committee has actually put stringent measures that will direct the Executive on how they can seal the loopholes that have been there. You will find

that there is a proposal from this Report that stringent measures should be put to ensure there is discipline in the spending of the monies from the county resources.

If we go into the direction and the proposals of this Committee, we will have what we call prudent spending and this will culminate into proper usage of the resources. As a county, we will be able to do all the projects that are touchy especially to the badly affected areas of the entire county. I stand to support the adoption of this Report. Thank you Mr. Speaker, Sir.

**Hon. Chai:** Thank you Mr. Speaker for giving me this time to also stand and support the Report. I want to congratulate the Chairperson of Public Investments and Accounts Committee and the entire Committee on the Report which we have come up with.

From the Report and what I was hearing from one of the hon. Members who is in the Committee, I think those officers who were not cooperating in giving out some clarifications should be punished so that next time they can cooperate with us. It will not be right for us to have recruited such officers and then in the end they go hide some of the Reports which are very important to this Assembly and the county as a whole.

We have had a lot of incompetence in most of these offices and I think from this, as it has been said, it is creating a lot of delays in projects implementation. I also heard from them that they were trying to delay this Report and I was not very happy with them and that is why I was requesting through your guidance Mr. Speaker, Sir, that stringent punishment to be directed to such like officers.

I think from this Report we have a lot of officers who are not doing their job properly and if not maybe they are hiding behind some of the other officers and that is why when you call some of them here you will hear them mentioning another officer who is not here. So, my take is that good punishment should be given to such officers so that they can learn in the end. I stand to support this Report Mr. Speaker, Sir.

**The Deputy Speaker** (Hon. Mwambire): Hon. Members, allow me to call upon the Mover to respond.

*(Question, that the Mover be now called upon to respond, put and agreed to)*

**Hon. Kaingu:** Thank you Mr. Speaker. On behalf of my Committee on Public Investments and Accounts, I am very grateful first of all to the office of the Speaker for the support they have given us while delivering our effort towards the completion of our Report. Also, most thanks should go to the office of the Clerk for the support they have given us towards the success of this Report. We also won't keep aside the...

*(Hon. Chai stood on a Point of Information)*

**Hon. Chai:** Thank you, Mr. Speaker, Sir. I was just rising on a Point of Information to the one who is speaking at the moment that the Chair...

**The Deputy Speaker** (Hon. Mwambire): Do you wish to be informed Hon. Duncan Kaingu?

**Hon. Kaingu:** Not really.

**Hon. Chai:** But I think it should go on record ...

**The Deputy Speaker** (Hon. Mwambire): He does not want to be informed.

**Hon. Kaingu:** Thank you for that protection. Great thanks should go to the Members of the Committee on Public Investments and Accounts for the great effort they have put. They have been given a lot of threats and faced numerous problems while making this Report.

The Committee Members sat for 46 sittings but because of their deliberations in making this Report, they received a lot of threats especially from the office of the Executive but all the same, they have managed to its completion.

Again on the side of the contributors we are very grateful to those who have contributed towards the success of this Report in this House. The Members were very candid in their contributions and for those hon. Members who have actually not contributed; please, we would like you to support this Report. This is a very good but sensitive Report.

Through this Report, we have been able to see the problems affecting our county. Some of the Executive Officers have been making very bad practices; they have misappropriated these monies. We have seen over Ksh 200 million expenditures being made without supporting documents; this is very bad. We have over 22 million shillings spent on imprest which has not been approved and these are very serious allegations. In our County and in our Wards generally, we have a lot of problems facing our people; we have seen some wards have schools where pupils are learning under trees. We have very bad roads and poor dispensaries and here we have monies being misappropriated.

A lot of money for this county is highly misappropriated. This practice should be stopped and that is why the Committee has made some recommendations. In our recommendations, we have stated that some of these incompetent officers have misappropriated monies and have failed to raise expenditures without supporting documents. They have raised some imprest payments without approval; they should be surcharged for the work done. This is because it looks like these monies got lost and here we are with a county that is seriously in need of this money.

We all know that the money that comes from the National Treasury is very little. Still this little money is being misappropriated; that is very bad. I want to urge all the hon. Members to support this Report so that it can act as a lesson to the staff of the County Executive. That next time when they carry out this practice, they should as well be punished.

Mr. Speaker, I would like to urge my fellow hon. Members to support this Report without any hindrances. With those few remarks, I urge all of us to support this Report. Thank you very much.

**The Deputy Speaker (Hon. Mwambire):** Hon. Members, allow me to put the question on the adoption of the Report of the Committee on County Public Investment and Accounts on the Financial Operations of Kilifi County Executive for the FY2013/2014 and Financial Statements for the County Government of Kilifi for the year ended June 2014.

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Deputy Speaker (Hon. Mwambire) left the Chair]*

## IN THE COMMITTEE

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*[The Chairperson (hon. Kenga) took the Chair]*

THE KILIFI COUNTY BETTING, GAMING AND LOTTERIES BILL, 2016

**The Chairperson** (Hon. Kenga): Hon. Members, we are now in the Committee of the Whole House and the business of this session is to consider The Kilifi County Betting, Gaming and Lotteries Bill, 2016. Here, the rules of the House are a bit relaxed Members are free to make consultations and again for us to be able to fully participate in the deliberations, you have an opportunity once the question has been proposed to make contributions on any issues that you would like to put across to the other hon. Members. Welcome.

*(Clause 3 and 4 agreed to)*

*Clause 5*

**Hon. (Dr.) Chitibwi:** Mr. Chairperson, I beg to move:

THAT, Clause 5 be amended by inserting the words “of Kenya 2010” in between the words “Constitution” and “which”.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 5 as amended agreed to)*

**QUORUM**

**Hon. Nzaro:** Mr. Chairperson, we have no quorum.

**The Chairperson** (Hon. Kenga): Thank you very much hon. Nzaro. Let me request the office of the Clerk to confirm if we have quorum or not so that we can determine whether to proceed or not.

**Clerk at -the-Table:** Hon. Chairperson, we do not have quorum.

**The Chairperson** (Hon. Kenga): Okay, it is confirmed by the office of the Clerk that we do not have quorum and I call upon the Sergeant-at-Arms to ring the quorum bell.

*(The Quorum Bell was rung)*

**The Chairperson** (Hon. Kenga): Mr. Clerk, do we have quorum?

**Clerk at -the- Table:** Yes, we have quorum Mr. Chairperson.

**The Chairperson** (Hon. Kenga): Okay, we can now proceed.

*(Committee of the whole House resumed)*

*Clause 6*

**Hon. (Dr.) Chitibwi:** I beg to move an amendment:-

THAT, Clause 6 (2) (b) to delete the phrase “finance” and replace with “Trade”.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 6 (2) (b) as amended agreed to)*

*(Clause 7& 8 agreed to)*

*Clause 9*

**Hon. (Dr.) Chitibwi:** I wish to propose:-

THAT, Clause 9 be amended by inclusion of a sub-item in Clause 9. 1) “Removal of office” which states “A member of the Board may be removed from office on any one or more of the following grounds- a) Lack of integrity; b) gross misconduct, whether in the performance of the members’ functions or otherwise; c) violation of the Constitution or any other law; d) physical or mental incapacity to perform the functions of the office; e) if a member misses 3 consecutive meetings without the consent of the Chairperson; or

2) Vacation from office; a person shall cease to be a member of the Board if such a person- a) Resigns in writing, to the Executive Member; b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months; c) is declared bankrupt; d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or e) dies.”

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 9 as amended agreed to)*

*Clause 10*

**Hon. (Dr.) Chitibwi:** Mr. Chairman Sir, I beg to move:-

THAT, Clause 10(7) be amended to specify the gazette to be “County Gazette.”

*(Question of the amendment proposed)*

*(Question, that the word to be inserted be inserted, put and agreed to)*

*(Clause 10 as amended agreed to)*

Clause 11

**Hon. (Dr.) Chitibwi:** Mr. Chairman, I beg to move:-

THAT, the renumbering of the following Clauses; Clause 9 to be Clause 10, Clause 10 to be Clause 11, Clause 11 to be Clause 12, Clause 12 to be Clause 13, Clause 13 to be Clause 14 and Clause 14 to be Clause 15.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 11 as amended agreed to)*

Clause 12

**Hon. (Dr.) Chitibwi:** I beg to move:-

THAT, in Clause 12 we substitute the phrase “Executive Committee Member” with the word “Board.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 12 as amended agreed to)*

*(Clause 13 & 14 agreed to)*

Clause 2

**Hon. (Dr.) Chitibwi:** Thank you very much Mr. Chairman. I beg to move an amendment in Clause 2 in the definition of gaming by deleting the phrase “whither” and replace with the phrase “whether.”

**The Chairperson** (Hon. Kenga): Thank you. Hon. Members I want to believe that you are all in agreement with all the amendments that are put forth; that is why you feel there is no need to make further contributions. In that regard therefore, I now propose the question.

*(Question of the amendments proposed)*

*(Question that the words to be deleted be deleted, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*

*Long Title*

**The Chairperson** (Hon. Kenga): Hon. Chairperson, I am informed that you want to move an amendment.

**Hon. (Dr.) Chitibwi:** Thank you Mr. Chairperson. I beg to move:-

THAT, in the “Enacting the formula” the phrase “and operational areas” should be inserted to read: “AN ACT of the County Assembly of Kilifi to provide for the control and licensing of betting and gaming premises and operational areas, for the imposition and recovery of tax on betting and gaming, for the authorizing of public lotteries in the County and for connected purposes.”

**The Chairperson** (Hon. Kenga): Thank you hon. (Dr.) Chitibwi for those amendments. I now propose the question.

*(Question of the amendments proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Long Title as amended agreed to)*

*(Short Title agreed to)*

**The Chairperson** (Hon. Kenga): Hon. Members, I want to take this opportunity to once again thank you for the cooperation that you have shown during the session. We have had a great session together and we have to end. I want to call upon the Mover to move so that we can proceed.

**Hon. (Dr.) Chitibwi:** Hon. Chairperson, I beg to move that the Committee do report to the House its consideration of the Kilifi County Betting, Gaming and Lotteries Bill, 2016 and its approval thereof with amendments.

**The Chairperson** (Hon. Kenga): Thank you hon. Chairperson.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

### **THE KILIFI COUNTY BETTING, GAMING AND LOTTERIES BILL, 2016**

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**Hon. Kenga:** Thank you very much hon. Speaker. I beg to report that the Committee of the whole House has considered the Kilifi County Betting, Gaming and lotteries Bill, 2016 and approved the same with amendments.

**Hon. (Dr.) Chitibwi:** Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report. I call upon hon. Kombo to second.

*(Hon. Kombo stood at his place to second)*

*(Question proposed)*

**The Deputy Speaker** (Hon. Mwambire): Hon. Kombo please.

**Hon. Kombo:** Come up again hon. Speaker?

**The Deputy Speaker** (Hon. Mwambire): You have seconded that the House do agree with the Committee in the said Report as shared by the Chairperson. Make your contribution over the same please.

**Hon. Kombo:** Your honour, the Committee received this Bill or Dr.aft from the Executive and we did a good job to make sure that this Bill is compatible with the issues that we envisaged. What the Committee came up with and the amendments made this the best document I can propose to this House. From these remarks, I say the work done in this document is good.

*(Question put and agreed to)*

**Hon. (Dr.) Chitibwi:** Hon. Speaker, I beg to move that the Kilifi County Betting, Gaming and Lotteries Bill, 2016 be now read the Third Time. I call upon hon. Gambo to second.

*(Hon. Gambo stood at his place to second)*

*(Question proposed)*

**The Deputy Speaker** (Hon. Mwambire): Hon. Gambo.

**Hon. Gambo:** Being one of the Committee Members who's Bill has been read, I propose that this Bill be read a Third Time so that it can pave way for our development so that the County will have control over the betting and gambling funds which are in our county. I am asking the Members as well to be in a position of supporting the reading for the Third Time of this Bill.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**The Deputy Speaker** (Hon. Mwambire): Hon. Members, the Kilifi County Betting, Gaming and Lotteries Bill, 2016 has successfully gone through all the required stages and is now ready for assent. Mr. Clerk, next Order please.

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for the Committee read)*

*[The Deputy Speaker (Hon. Mwambire) left the Chair]*

**IN THE COMMITTEE**

*[The Chairperson (Hon. Kenga) took the Chair]*

**THE KILIFI COUNTY ENVIRONMENT (REGULATION AND CONTROL) BILL, 2016**

**The Chairperson** (Hon. Kenga): Thank you very much hon. Members. Once again we have converted into a Committee of the Whole House ready to consider the Kilifi County Environment (Regulation and Control) Bill, 2016. Welcome.

*(Clause 3, and 4 agreed to)*

**Clause 5**

**Hon. Chiriba:** Thank you, hon. Chairperson. I beg to move:

THAT, Clause 5(2) and 5(3) is removed and inserting its provisions to “Part VIII to be entitled Enforcement”. Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 5 as amended agreed to)*

**Clause 6**

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:

THAT, Clause 6 is amended by renumbering it “Clause 11” and deleting “sub-Clause 6 (b) and 6(c)”. Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 6 as amended agreed to)*

*Clause 7*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:-

THAT, "Clause 7" is amended by renumbering it "Clause 12" and further amending it by inserting the phrase 'or entity' immediately after the word 'person' and deleting the word 'of' between the word 'fine' and the word 'fifty' and insert thereof with the phrase 'not exceeding' and further amended by sub-dividing it into Clause 12 (1) and 12 (2) to provide as follows;

1. "A person or entity shall not act in a way that directly or indirectly causes, or is likely to cause immediate or subsequent air pollution, or emit any liquid solid or gaseous substances or deposit any such substances contrary to this Act".
2. "Any person or entity found acting in contravention of subsection (1) commits a crime and shall upon conviction-"
  - a) "If a person;" be liable to a "fine not exceeding fifty thousand shillings" or imprisonment for a term "not exceeding six months" or both; and
  - (b) If an entity; be liable to a fine "not exceeding five million shillings".

Thank you very much.

**The Chairperson** (Hon. Kenga): Thank you very much. I hope each and every Member is following and we all have this indicated in our Order Paper.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 7 as amended agreed to)*

*Clause 8*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:  
THAT, "Clause 8" is amended by renumbering it "Clause 13".

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 8 as amended agreed to)*

*Clause 9*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:-  
THAT, "Clause 9" is amended by renumbering it "Clause 14". Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 9 as amended agreed to)*

*Clause 10*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:  
THAT, (a) “Clause 10” is amended by renumbering it “Clause 15”. (b) That Clause 10 (3) is deleted. Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 10 as amended agreed to)*

*Clause 11*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move;  
THAT, “Clause 11” is amended by renumbering it “Clause 16” and deleting the phrase “and cultural burning” in Clause 11(c). Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 11 as amended agreed to)*

*Clause 12*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:-  
THAT, “Clause 12” is moved to Part VII to be named “General Licensing Provisions”.  
Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 12 as amended agreed to)*

*Clause 13*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move:-  
THAT, "Clause 13" is amended by renumbering it "Clause 17". Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 13 as amended agreed to)*

*Clause 14*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move;  
THAT, "Clause 14" is amended by renumbering it "Clause 18". Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 14 as amended agreed to)*

*Clause 15*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move;  
THAT, "Clause 15" is amended by renumbering it "Clause 19". Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 15 as amended agreed to)*

*Clause 16*

**Hon. Chiriba:** Thank you hon. Chairperson. I beg to move;  
THAT, “Clause 16” is amended by renumbering it “Clause 20”. Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 16 as amended agreed to)*

*Clause 17*

**Hon. Chiriba:** I beg to move:-  
THAT, Clause 17 is amended by renumbering it Clause 21.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 17 as amended agreed to)*

*Clause 18*

**Hon. Chiriba:** I beg to move:-  
THAT, Clause 18 is amended by renumbering it Clause 22.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 18 as amended agreed to)*

*Clause 19*

**Hon. Chiriba:** I beg to move:-

THAT, "Clause 19" is amended by renumbering it "Clause 23" and further amending it by inserting the phrase "or entity" immediately after the word 'person' and deleting the word "of" between the word "fine" and the word "fifty" and insert thereof with the phrase "not exceeding" and further amended by sub-dividing it into Clause 23 (1) and 23 (2) to provide as follows:

(1) A person or entity shall not act in a way that directly or indirectly causes, or is likely to cause immediate or subsequent air pollution, or emit any liquid solid or gaseous substances or deposit any such substances contrary to this Act.

(2) Any person or entity found acting in contravention of subsection (1) commits a crime and shall upon conviction- (a) if a person; be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months or both; and (b) if an entity; be liable to a fine not exceeding five million shillings.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 19 as amended agreed to)*

Clause 20

**Hon. Chiriba:** I beg to move:-

THAT, Clause 20 is deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 20 as amended agreed to)*

Clause 21

**Hon. Chiriba:** I beg to move:-

THAT, Clause 21 is moved to Part IX to be named "Miscellaneous".

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the Clause to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 21 as amended agreed to)*

*New Clauses*

**Hon. Chiriba:** I beg to move:-

THAT, Clauses to be inserted to be named 6,7,8,9,10,24,25,26,27,28,29,30,31,32,33,34 and 35 that will provide as follows:

Establishment of Sub-County Committees

6. (1) (a) There is established in every Sub-County, a Committee to be known as the Sub-County Environment Committee.

(2) The functions of the Committee shall be –

(i) responsible for the proper management of the environment within the sub-county for which it is appointed

(ii) perform such other functions as may be prescribed by this Acts or as may from time to time be assigned by the County Executive Member in charge.

(3) The Committee shall consist of;

a. Sub-County Administrator who shall be the chairperson;

b. Sub-county environment officer from the relevant sub-county who shall be the Secretary;

c. A representative from each of the county departments;

d. One person representing farmers or pastoralists;

e. Three residents of the sub-county appointed by the Executive Committee Member one of whom shall be a Youth.

f. one person representing the business community and non-governmental organization engaging in environment matters in the community from the Sub-County.

(4) the Sub-County Environment Management Committee may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Committee.

(5) (a) the appointed members under sub-section(3) (a) and (e) shall be subject to the requirements of Chapter Six of the Constitution and hold a minimum qualification of a certificate at O-level.

(b) the above appointments shall satisfy the requirements of the gender rule envisaged in the constitution

(6) a member of the Committee appointed under sub-section (3) (a) (e) and (f) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

Conduct of Business

7. (1) the conduct and regulation of the business and affairs of the Committees shall be as set out in the Schedule.

(2) except as provided in the Schedule, the Committees may regulate their own procedure.

Remuneration

8. the offices in the Committee shall not attract any remuneration.

#### Removal from Office

9. a member of the Committee may be removed from office on any one or more of the following grounds -

- i. lack of Integrity;
- ii. gross misconduct , whether in the performance of the members' functions or otherwise;
- iii. violation of the Constitution or any other law;
- iv. physical or mental incapacity to perform the functions of the office;
- v. missing three consecutive meetings without a reasonable cause;
- vi. incompetence during the period in office, the appointing authority shall write to the County Assembly requesting the removal of a member from the Board and in the case of the Sub-County Committee the appointing authority shall write to the Board requesting for removal of a member in the Sub-County Committee.

#### Vacation from Office

10. A person shall cease to be a member of the Board if such person—

- i. resigns in writing, to the Executive Committee Member for persons under (2) (a) (e) and (f)
- ii. is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- iii. is declared bankrupt;
- iv. is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- v. dies.

#### Application for licenses and Permits

24. (1) Any person or entity which desires to obtain a license or permit, or vary a license or permit already issued to them under this Act shall make an application in a prescribed form to the Department where the intended activity is to be situated and the application shall be accompanied by the prescribed fee.

(2) The Department may-

- (a) issue a license or permit, in accordance with this Act;
- (b) refuse to issue the license or permit on any ground which may appear to be sufficient and inform the applicant, in writing, the reasons; or
- (c) cancel, vary or suspend any license or permit if, in the finding of the Department, the license or permit is found to have contravened the Act.

#### Department may object to granting or renewal of licenses

25. The Department may raise objection in granting or renewing a license relating to—

- (a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house; or
- (b) the use of premises for the carrying on of any work or trade, on the grounds that-

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- (i) the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from such premises are not efficient; or
- (ii) the granting of such license or the renewal thereof would be calculated to cause public nuisance or annoyance to persons residing in the neighborhood, or otherwise be against public interest.

#### Issue of licenses

26. (1) The Department shall issue licenses to applicants subject to such lawful conditions as the Department may determine.
- (2) The Department, after consultation with the Executive Committee Member, shall prescribe the fees payable on the issue of licenses and permits under this Act.
- (3) The issuance of a license or a permit to an applicant under this Act shall not be withheld without reasonable cause.
- (4) A license issued under this Act is not transferable.
- (5) The Department shall ensure that an updated register is kept and maintained for all licenses issued pursuant to this part.

#### Conditions of a license

27. (1) A license or permit issued under this Act shall be subject to such conditions as the Department may determine which shall be specified in the Regulations.
- (2) The Department may at anytime during the validity of a license or a permit—
- a) vary the conditions of the license; or
  - b) impose conditions or further conditions on the license.

#### Revocation, alteration or suspension of license

28. The Department may revoke, alter or suspend a license or permit issued under this Act if—
- (a) an offence under this Act or in respect of the licensed activity under any other written law, has been committed by the license holder or any employee of the license holder;
  - (b) a condition of the license has been contravened or not complied with.

#### Surrender of license

29. (1) The holder of a license which is revoked shall immediately surrender it to the Department.
- (2) A license holder may, at any time, surrender the license to the Department and the license shall cease to have effect forthwith.

#### Appeals

30. (1) An applicant for or the holder of a license or a permit who is aggrieved by a decision of the Department on—
- (a) the grant, refusal, renewal, variation or revocation; or
  - (b) the conditions imposed on the grant, renewal or variation, of a license may appeal to the Executive Committee Member.

#### Publication of revocation order

31. Where a revocation order has been made under section 28 directing that a license or permit be revoked, the Department shall inform the public of that order in such manner as it considers necessary under the circumstances.

#### Authorized Officers

32.(1) The Member shall by notification in the Gazette, appoint such number of authorized officers as may be necessary for the proper administration of this Act.

(2) The Member shall issue a letter of appointment to every officer appointed under this section

(3) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorized officers for the purposes of this Act –

(a) Environment Officers in the department of Environment

(b) Senior Officers in the Enforcement Unit of the County Government above the rank of the superintendent ;

(c) A member of the police force above the rank of Inspector; and

(4)The officers appointed in sub-section (b) and (c) above shall not act without approval by the Executive Member.

#### Power of Entry

33. (1) For the purposes of ensuring compliance or implementation of the Act, an authorised officer may, at any reasonable time, enter any place in which any function related to this Act are carried out.

(2) Despite subsection (1), the authorized officer shall produce a valid identification document before entering any premises.

#### Powers of the Authorized Officers

34 (1) An authorized officer may examine or inspect any facility or equipment, related to this Act or gain access to any area for the purposes of implementing this Act.

(2) Any person who obstructs an authorized officer while enforcing or implementing this Act commits an offence and liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months.

#### Regulations

35. (1) The Department may, with the approval of the county executive committee, make Regulations for the better carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made under this Act may prescribe for –

- a) Regulating the businesses, factories and workshops within the county which, by reason of smoke, fumes, chemicals, gases, dust, smell, or any other cause, may become a source of danger, discomfort or annoyance to the neighbourhood;
- b) controlling emission of fumes from vehicles;
- c) prohibiting or controlling the display of advertisements and advertising devices in or in view of any street or other public place or in such places or in such manner or by such means as would, in the opinion of the department, be likely to affect injuriously the amenities of or to disfigure any neighbourhood;
- d) regulating the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices;
- e) regulating the distribution of handbills in or along any street or other public places;
- f) controlling street decorations, and prohibiting or controlling the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession;
- g) regulating the size of the billboards and the number that may be erected on a road reserve;
- h) the procedure and manner of issuing a permit for outdoor advertising and application for such a permit under section 20; and
- i) such fees and expenses as may be payable for any permit or other authorization relating to the control of air pollution, noise pollution, any public nuisance or outdoor advertising to be issued under the Act.

*(Question of the new Clauses proposed)*

*(New Clauses read the First Time)*

*(Question, that the new Clauses be read a Second Time, proposed)*

*(Question, that the new Clauses be read a Second Time, put and agreed to)*

*(New Clauses were read a Second Time)*

*(Question, that the new Clauses be added to the Bill, put and agreed to)*

*(Clauses 6,7,8,9,10,24,25,26,27,28,29,30,31,32,33,34 and 35 agreed to)*

### *New Schedule*

**Hon. Chiriba:** I beg to move to:-

Introduce a new schedule to be inserted immediately after Part IX to read, "FIRST SCHEDULE" which contains a schedule on the conduct of business and affairs of the Committee as follows:

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## FIRST SCHEDULE

(s. 7)

## PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE SUB-COUNTY ENVIRONMENT MANAGEMENT COMMITTEE

## 1. Meetings

- (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.
- (3) Unless three quarters of the total members of the Committee otherwise agree, at least fourteen days' written notice of every meeting of the Committee shall be given to every member of the Committee.
- (4) The quorum for the conduct of the business of the Committee shall be seven members including the Chairperson or the person presiding.
- (5) The Chairperson shall preside at every meeting of the Committee at which he/she is present but, in his/her absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.
- (6) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
- (7) Subject to subparagraph (4), no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

## 2. Conflict of interest

- (1) If a member is directly or indirectly interested in any matter before the Committee and is present at a meeting of the Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or

discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

### 3. Minutes

The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

*(Question of the new Schedule proposed)*

*(New Schedule read the First Time)*

*(Question, that the new Schedule be read a Second Time, proposed)*

*(Question, that the new Schedule be read a Second Time, put and agreed to)*

*(New Schedule was read a Second Time)*

*(Question, that the new Schedule be added to the Bill, put and agreed to)*

*(Schedule agreed to)*

### Clause 2

**Hon. Chiriba:** I beg to move:-

THAT, Clause 2 be amended by including the interpretation of the words “entity”, “sub county Committee” and “urban area” as follows:

“entity” includes a company, corporation, firm, institution, partnership, trust, or other organization, whether incorporated or not.

“Sub-county Committee” means the Sub-County Environment Committee established under section 6 of this Act.

“Urban area” means a municipality or a town.

*(Question of the amendment proposed)*

*(Question, that the words to be added be added, put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Long Title agreed to)*

*(Short Title agreed to)*

**The Chairman** (Hon. Kenga): Thank you very much hon. Members. We have now come to the end of this session and I will call upon the hon. Chairperson to be able to move so that we proceed.

**Hon. Chiriba:** Thank you very much hon. Chairperson. That was good business that you have enabled us to transact. I will now move that the Committee do report to the House its consideration of the Kilifi County Environment (Regulation and Control) Bill, 2016 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Deputy Speaker (Hon. Mwambire) in the Chair]*

## **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

### **THE KILIFI COUNTY ENVIRONMENT (REGULATION AND CONTROL) BILL, 2016**

**Hon. Kenga:** Once again Mr. Speaker, thank you very much. I beg to report that the Committee of the Whole House has considered the Kilifi County Environment (Regulation and Control) Bill, 2016 and approved the same with amendments. Thank you.

**Hon. Chiriba:** Thank you Mr. Speaker. I beg to move that the House do agree with the Committee in the said Report. I call upon hon. Emmanuel Kazungu Chai to second.

*(Hon. Chai stood at his place to second)*

*(Question proposed)*

**Hon. Chai:** Thank you Mr. Speaker, Sir, for allowing me to make a few remarks on the Bill. It would be as you have seen and what we are experiencing is that we had a lot of amendments on these Clauses. As a Committee through our able Chairperson, we came to find out that we were missing a lot of recommendations in our Bill and that is why we came up with a lot of recommendations and amended some of the Clauses. I think when it is adopted, it will be very nice to take care of our environment in the county as we have seen in some of the areas, giving an example of Jaribuni where we have a lot of destruction of the environment like air pollution. This will give me a chance to work on it because we will have a Bill which these people are going to follow. I stand in support of the Bill. Thank you very much.

**Hon. Nzaro:** Thank you Mr. Speaker. I also stand to support the adoption of this Bill. One of the fundamental aspects which we tried as a Committee to look at and from various stakeholders, we thought it was fit to incorporate the issues of the Environment Committee in

this Bill. That is why we will be acting in tandem with the EMCA (Environmental Management and Co-Ordination Act) 2015 because it recognizes the issues of Committees in environmental matters. The other aspect which we tried to look at is the issue of alternative cooking procedures such as the cooking technology which is about to come in our county. This will help in reducing deforestation so that the issues of environment will also be taken care of. This is a very good Bill and I know the people of this county will live in a very clear and healthy environment when we pass this Bill. Thank you Mr. Speaker. I rise to support it.

**The Deputy Speaker** (Hon. Mwambire): I will put the question which is that the House do agree with the Committee in the said Report.

*(Question put and agreed to)*

**Hon. Chiriba:** Thank you Mr. Speaker, I beg to move that the Kilifi County Environment (Regulation and Control) Bill, 2016 be now read for the Third time.

*(Hon. Nzaro stood at his place to second)*

*(Question proposed)*

**Hon. Nzaro:** Thank you Mr. Speaker. I have just contributed to this Bill and I think Members will agree with me that this is the right time we have for us to pass this Bill. I also want to take this time and urge all my fellow Members to support it. Thank you, Mr. Speaker. I rise to support.

**The Deputy Speaker** (Hon. Mwambire): Hon. Members, I will now put the question which is that the Kilifi County Environment (Regulation and Control) Bill, 2016 be now read for the Third Time.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**The Deputy Speaker** (Hon. Mwambire): Hon. Members, the Kilifi County Environment (Regulation and Control) Bill, 2016 has undergone all the required processes and stages and it is now read for assent by the Governor.

## ADJOURNMENT

There being no other business to transact at the moment, this Assembly adjourns until on Monday at 2.30 p.m. Thank you very much.

**The House rose at 4:37 p.m.**